Saul and Samuel;

OR,

The Common Intereſt

OF OUR

KING and COUNTRY;

In an Impartial Addreſs to a Member of Parliament.

He that talks of their having a *Separate Intereſt*, ought rather to be made an *EXAMPLE*, than a *SECRETARY*.

Sam. Jo—ſon's *Argument*, p. 44. *Dedicated to the Houſe of Commons.*

Give us a King to Judge us, 1 Sam. viii. 6.
We will have a King over us, viii. 19.
But Samuel hewed Agag to pieces, xv. 33.

——Εἷς Κοίρανος ἔστω--Εἷς Βασιλεύς; Ulyſſ. *in* Hom. Iliad. *β.*
Ung Dieu, & Ung Roy. Littleton, *and* Sam. Jo--ſon's *Notes*, p. 8.
Una eſt Monarchia, & unum eſt Regnum. Leg. Edw. Confeſſ. 17.
Rex unus erit omnibus. Ezek. xxxvii. 22. Cotton's Abridg. *p.* 367.

Proſpicitote ſedulò, ea etenim Ego vobis Lege veſtra omnia benigne largitus ſum, ut mea mihi vos itidem concedatis, Leg. Æthelſtan. Lamb. 45. *Ergo*—— Render unto *Cæſar* the things that are *Cæſar*'s, is good Goſpel according to Law.

Statuimus & firmiter præcipimus, quod omnes liberi homines totius Regni Noſtri, ſint fratres Conjurati ad Monarchiam *noſtram pro viribus ſuis defendendam.* *Lex* Guliem. Conquſtor. 59. Lamb. *Pag.* 71.

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A BALANCE To be Kept betwixt KING and PEOPLE.

CHAP. I.

SIR,

IT is not *every* Man *among us*, that, like *your self*, can be a *Parliament-man*, no more than *every* Man *among You* can be a *SPEAKER*; and therefore there will *ever* be some *Speech without-door*, to those that are *within*.

And indeed, never was there more Occasion of Address from a *Free-born People*, to those that will either be the *Protectors* of their *Liberty* or the *Promoters* of their *Slavery*: Never was a Nation more *awaken'd*; and then surely their *Eyes* should be as *open* too, unless we may be liken'd unto them that *dream*, and that when *awake*: But 'tis apparent that we begin to *see*, and that our *Eyes* are *fix'd* on this *August Assembly* and *Parliament*, from which all Sides expected *Wonders*. But indeed, if a Man considers the *wonderful* Works of our former Parliaments, it may spoil his Expectations.

It seem'd a bold Essay of no little Politician of the late Reign, to prove, That *England* could raise Five Millions for *One* Year: Which it has done for *Ten* together. It is more than probable now the Court might expect another Five Millions, and want it; and a Country Party, Resty, and ready to refuse it: It was the Hopes of some, and Fears of others; which as I should neither wish nor forebode, so the Falling-out about it will infallibly bring us into Confusion: For what a *King owes*, the *Country* is *bound for*; yet care must be taken that the one become no more a Bankrupt than the other a Beggar, for *Henry* IIId's Reign gave us a sad Instance of both.

Some will resemble our Case to the Mariner that committed all his Cargo to the Sea, to appease the Storm, but the Tempest continued still; others will compare us to the Master of the Vessel that refus'd to *pay* a Pilot to bring him into Port, and so perish'd by the Harbour: And, ——*Portu qui teste perit, bis Naufragus ille*,—— says the Poet. And then again, some say, our Mythologists of late have *fool'd* and *fabl'd* us into Fears and Dangers, almost to the losing of the *Sheep* for the saving of the *Tar*; and would make our Expeditions and Navigations like that of *Æsop*'s *Shepherd* too, where our *Wooll* is turn'd into *Dates*, and our *Dates* into the *Sea*, and then conclude with the same old Moral, the old Poetry of which seems not much inferiour to the late *Tunbridge* Vein,

Dangers and Losses make Men wise, 'tis thought,
And Wit is never good till it be bought.

Vid. Old *Æsop. Fab.* p. 197.

On the other side, there is an ugly *Fable* too, of the Falling-out of the *Belly* and *Members*; and it must be altogether as bad when they fall-out with the *Head*: And the *Moral* of the *Fable*, you'll find, makes it the Case of the *State*.

But after all the Stretches and Extreams on both Sides, the true *Interest* of *King* and *Country* will be found to consist in the observing of a *Medium* in their Councils and Administrations; which will defeat all those Exaggerations that Wit and Malice will alway suggest, to render their Excesses suspected to one another: And therefore 'tis to be hoped, a Temper and Moderation may sometimes reconcile, what Resentment and Animosity must run into Distraction.

MODERATION is a very *gentle* word, *easily understood*, if Men would but be as *easily entreated* to be guided by it; it is *good Divinity*, and would be *good Policy* too, if our *Moderation were known to all men*: And this Temper being recommended to us from a Text of Scripture, it would be best explain'd in the Practice of its Expositors; and our Divines would doubtless do well still to practise and follow what they *teach*, and our States-men be induced the sooner to believe and practise what they are *taught*. A *Black Swan* or a *Phœnix* are indeed *rare Birds*, and much doubted in Nature; but I hope a *good Temper* is no such a Chimæra as to be despair'd of yet, but what will evidently show it self sometime among us, to answer the Ends of Government; which is, to observe a *Medium*: For there can be no *Justice* where there is nothing to hold the *Scales*, no *Equity* where there is no *Æquilibrium*; and may our calm and sober Debates wipe off at last a National Reproach, *That* England *is always running into Extreams*.

Vid. *Coke's* 3d *Inst.* p. 2.

We have had Parliaments indeed of various *Denominations*; and if some measures were taken, this might not be long without a *Name*, a Name that may eternize it to Posterity; not as my Lord *Coke* does his *Parliamentum Indoctum*, for want of a Lawyer in it; of which, God be praised, Ours now have enough, and I hope not too many, lest by having *too much* of the *Law*, we should have *too little* of *Equity* and *Justice*; but like that in the Reign of our *good King Edward* III. 'tis to be hoped this may be call'd the *good Parliament* too; which yet was not *given* to that Parliament in the same Reign, only because it was no *giving* Parliament; and when the King desired a Supply, remonstrated with a Redress of Grievances, and the Removal of that King's best Friends from the Court, but because it temper'd matters in such a judicious manner and moderate a way as to furnish and supply both the Necessities of the King and the Crown, and at the same time to consult and satisfie both the Ease and Desires of his People and Subjects: And in this so prudent Administration, so long since, did the Interest of *Court* and *Country* seem to consist, and that in the long Reign of a great King, and victorious Conqueror. And if such a King, such a Reign, such a Parliament, may pretend with us to *prescribe* it self into practice or a Precedent, any sober and seasonable Enquiries into any Male-Administration of *Military* or *Civil* Affairs cannot be so ill resented by the very Parties concerned, especially the *former*, in such another *Military* Reign, when we read, that in those days it was no less than High-Treason to offend in these Points, and when now of late only some few Officers or Agents were Examin'd and brought to Account, and then no less Man than Sir *John Midsterworth* Hang'd and Quarter'd at *Tyburn*, only, as our Annals tell us, *for Defrauding Soldiers of their Wages!* I am sure, the Army can't be angry with the Parliament, for taking care to see them paid.

Soldiers seem to be a sort of Men, from their daily Dangers to be still upon the *forlorn*, and from their first *Listing*, to take *Pay* to *die*; and so have from the Publick, for which they serve, in Gratitude as well as Justice, a double Title to be well paid while in their Service they *live*; and since commonly, in the literal sence, the *Wages* of War and the Soldier is like that of *Sin* which accompanies it, *Death*, they deserve rather double Pay, for the double Risque they run, of *dying* so soon, and (without God's Grace) going so early to the *Devil*; rather than when they have happily escaped *Death*, that one *Dilemma* of their *Life*, and return with a *Victoria læta*, to be *defrauded* of what they have got with the hazard of their Lives. Sacred History tells us of a great General, Hero and Prince, that refused to drink of a little *Water* that was obtain'd with the hazard of his Soldiers Lives: but their Treatment is certainly in the other extream, when their Blood shall be drank, and their Money drein'd, and their Pay, which is their Life, diverted to other purposes.

A *Standing Army* Unpaid is a *double Danger*, as well as *double Charge*; and it is a Solecism certainly in Government, as well as Sense, to desire that which you take no care to keep; and it is as odd, on the other side, to see the Proceedings of a *Civil* Parliament reproach'd by some *Military* Men, that has only taken care to Answer their Petitions and Complaints, kept their *great Pikes* from *pouching* of the *little Fry*, and an hungry Colonel or ravenous Captain or Agent from devouring an whole Company or Regiment.

'Tis

'Tis certainly a Justice to *King* as well as *Country*, to find-out what becomes of our Coin; for 'tis certain, any Politick Body as well as Natural must languish, where all the Blood runs to the Head without a Circulation, which, when well distributed, makes it sound; and a King of *England* will be better served, when, like a King of *France*, his Men may be *well Punish'd* by being *well Paid*.

And here now we are come to the late Grand *Point*, To consider the *Quota*: Upon which it cannot be impertinent impartially to enquire, whether any more moderate Way might have been taken, in Establishing what Number, after an Expensive *War*, we could handsomly have Maintain'd and Paid in Peace: A *Peace* acquired to us, according to the Latin Aphorism that tells us, *Pax Quæritur Bello*; a *Lemma* left us by the late Protector, with his *Image and Superscription*, as a monumental remembrance, That *Peace* is not to be acquir'd without *Blood*; and the more to be *priz'd* when so dearly *bought*.

And here I would willingly *carry* my self as evenly as I could, and be as tender in delivering my Opinion, as my Lord *Howard* was in giving of his Evidence, when he would *carry his Knife between the Apple and the Paring*. The Transmutation of Metals, I see, is not so easily to be perform'd, as that of Mens Minds and Tempers; but though *Men* change their Natures, *Things* will still be the same: This is plain, That in our Politick *Bodies* (whatever can be done in the Natural) there has been since the late Grand Revolution the greatest Change that can happen to Humane Creatures, next to that of the Resurrection; it seems a sort of Transfusion of Souls, and a *Pythagoræan* Metempsychosis of passing into one another while we are yet alive. In a word, some of the *Old Tories* are turn'd *New-fashion'd Whiggs*, and the most *peevish Whiggs* now the most *ranting Tories*; and therefore he that is the *Trimmer* is the more *stedfast*, and, as matters now stand, may pass for the *honester Man*.

I can't imagine that any of our *Military Men*, or those that make and compose the *Civil List*, (*both* which together seem to form *one Court*) ever expected or desired to see the same Establishment in *Peace* that was settl'd for the *War*. On the other side, it may be suppos'd, that some Patriots that seem'd as zealous for the *Country*, never desired or expected to see them reduc'd to what they are. From near 100000 to 7000 is indeed a great *fall*, by which we must now *stand* or *fall*, and *Time* [as we were told too by the * best Judge] must determine the *Extream*: In the mean time, it may modestly be observ'd, and I hope without offence, That 10000, or 12000, or 14000 Men might have been a *Quota* that could no more have endanger'd the Nation, than they could be said to *preserve* or *conquer* it, without some other *Additions* or *Defections*. It was thought so upon the late Revolution, and that by Men of both Sides; and then a scurvy Reflection that some angry Men might make, (for Disbanded Men are certainly Losers, and will speak) would have been both handsomly and happily avoided, That the *English* would not leave King *William* as many Men to *protect Himself*, as he brought to *preserve Them*; and will be apt [to obviate *objected Fears*] to say further, and perhaps without a *Paradox*, That 15000 can no more enslave *England* than 10000, nor 10000 more than 5000. Neither would I have had these to be *Dutch-men*, since the *English* have sufficiently signaliz'd both their Valour and Fidelity to King *William*, who has had the goodness to own it, whatever Count *Solmes* might think to the contrary; 'tis well known they stood it both at *Steenkirk* and *Landen*, when some others sate loose, or left them: Yet, on the other side, some more tender spirits and nice, seeing the King's great Compliance, and gracious Condescension, to come to part with his own Guards, for being Foreigners and *Dutch-men*, seem to think, that in point of Honour, and with no less Safety, the same Number of *English* might have been substituted in their room. For our *English*, that might not have brook'd so well to have seen two Regiments, or a matter of 2000 *Dutch-men*, and among them about Threescore Officers well Lac'd and Clad, with good Meat in their Bellies, and good Silver on their Backs, and perhaps in their Pockets too, and the same Number and Quality of *English* wanting for it both Food and Raiment; yet so many of our own *English* substituted in their room might have been contentedly borne, since it would have made provision for so many of our Natives, the Expence of which would have been partly sav'd out of their *Half-Pay*.

* K. *Speech.*

But all this is but an Essay of Thought; and they say, A Man may *think* what he must not *speak*: It is *sufficient* that the Parliament has determin'd what is *sufficient*, and which, by our late Constitution, we are bound as *Implicitly* to *believe*, and as *Infallible* too, as any *Council* at *Rome*. And though *Sam. Johns.* thinks he has *sufficiently* baffled all *Passive Obedience* to Kings, he cannot, he thinks, *sufficiently* recommend to us a *Blind Obedience* to his *Unlimited Power* of the

People and *Parliament*. Therefore, give me leave to say by *mine*, as the Bishop of *Cambray* is said to say by *his* Book, If any *word* or any *thing* in it offends our *Superiors* or *Legislators*, I am not only sorry for it, but I retract and renounce it.

The *Disbanding Act* was the work of the last Parliament, and they that don't like it, lay all the blame *there*; as many do of our New-sett of *Tories*, who in the late Reigns, when the *Whigg* was predominant in their *Tempers*, thought the bare *Guards* of King *Charles* II. with the *Lobsters* and *Yeomen*, such a *Standing Army*, that for the *reducing* [or *subduing* them rather, whatever soft appellations or interpretations some tender Politicians may put upon them,] a *great Conspiracy*, and, pursuant to that, a formidable Rebellion was set a-foot; which though some Lawyers and Casuists may call *little Stirs*, *Consultations*, and *Misprisions*; and if my Lord *R.* did *secret* or meet to *drink Sherry*, and then Consult to *seize* the *Meuse* and the *Guards*; or the D. of *M.* with another *Standing Army* of 7000, Rendezvous at *Sedgmore*: Though our *Samuel* tells us of the first, That he did but *Talk*, and *Talk* was but *Talk*; and may of the latter, That He did but *Act*, and *Action* is but *Action*: I hope he'll give us leave too, to say, A *Spade* is but a *Spade*, but that a *deep Plot* and dangerous Rebellion was on that occasion then a-foot; equally destructive to this King's Right, as to that of his Predecessor, is as certain, as that there ever was any a-foot against the present King, or that any Confess'd and Suffer'd in *both* for having hands in them. So that these Men that favour'd those *Stirs* or *Rebellions*, or *Sam.* the *Chaplain-Priest* that blew the Trumpet to them, can but with an ill grace be angry with his *Patrons*, a Parliament, for *reducing* of a *mighty Army*, that thinks it convenient to *Rebel*, for the sake of a *few Guards*. But that the last Session and Parliament may not have all the Honour or Blame, [as these Blemishers would lay their *Action*] 'tis as certain too, that the *former*, which was *Dissolv'd* with Complement and Applause, took the Liberty first to *Vote* this *Reforming* and *Disbanding* of *Forces*; all the difference lying in this, that the former Parliament *gave* faster than they *disbanded*, and these *disband* faster than they *give*: And though I have observ'd it insinuated, and by nicer Composers, and more tender of Majesty, (as they would be thought,) [though, I remember, once as disrespectful to *Crown'd Heads*] that the Regrating on a King, with a Recapitulation of Promises, did not seem so decent in the *end* of an *Address* that had so *handsom a beginning*; I must observe, if *Precedent* can warrant Parliamentary Proceedings, That the former Session that preceded the last took as large a Liberty, when in the beginning of theirs they let the King know, That *they* had so *Wisely ADVIS'D* the *beginning* of that *War* His Majesty had so *happily finish'd*. All that can be said to this point of Honour or Prerogative, is, That though our *Warlike* Queen *Elizabeth*, and her Successor the *Peaceable* King *James*, would and did (though they had both as much the Hearts of their *People*) take it much amiss, and Reprimanded with Rebukes too, when *they* intermeddled with *Peace* or *War*: yet now, if not from the *Old Original*, at least from our late *New Contract*, these once Excesses on the Subjects side seem to be made more *Warrantable*, if not *Statutable*; and that ours, as it was ever a *limited* Monarchy, so by some late Acts and by some late Statutes it seems to have undergone some further Limitations: For this *Country* Doctrine, or *plain down-right*, our *Court* is obliged to some that it keeps now in *Pay*; and if *Samuel*, with his *Salary*, be not the same Man in the *King's Court* that he was in the *King's-Bench*, we must say with the Text, *His works will follow him.*

Vid. *Remarks on Tryals. S. J. Notes*, p. 100.

Vid. *Notes on Phœn. Edit.* p. 100.

Vid. *Phœn. Edit.* p. 71.

19 *Jac.* I.

And now, after all the litigated Arguments that have been publish'd of late, *for* and *against* a *Standing Army*, which at last make no less than a large Volume, I have observ'd, that their Authors Argumentations on both Sides seem to have more Passion and Concern than Impartial Reason and Weight, and so consequently encline to those *Extreams* we *English-men* are apt to run into: their Arguments are indeed still *A majori ad minus*; which though perhaps good Logick in the Schools, may be but bad Politicks in the *State*; and when we are always quarrelling about *too much* or *too little*, we naturally and necessarily fall under that National Obloquy and Reflection, *That the* English *seldom know when they are well.*

But what is best, after all, we find a Parliament, *our Constitution* (and which is certainly the best in the World) has settl'd and determin'd this Point; for the Authors that have scribbl'd *for* or *against* it are of no consideration or weight, when they come to be balanc'd with the *Legislative*; and are no more *Judges* of the *Cause*, than the Lawyers or Advocates that wrangle at the *Bar*, the one *Writes* as the other *Pleads*, *both* for their *Pay*; while the Judgment of the *Bench* and the *Court*, and the Verdict of the *Jury*, generally puts an end to the Controversy: For these Reasons, and out of Deference to the Definitive Sentence of the *Wisest* and *Highest Court* we have in *England*, I decline the discussing some momentous Matters that might make any resumption

of

of Debate, and so shall forbear arguing *for* or *against* any of the following Interrogatories; and therefore let all Politick Heads take them *as they please*, think of them *as they please*, and make of them *what they please*, and that, I hope, is the way not to *displease*; *Qui capit ille facit*: and that is a true Maxim, no Fable, and yet as fit for Moral *Application*.

1st. It may be a question, Whether King *William*, in *safety* and *honour*, did not *want*, and then ought to have *had* as much Force to *preserve Himself*, the *Church* and *State*, as *Himself brought* when he came to *protect Them*?

2dly, Whether 15000 can much sooner conquer *England* than 10000, or 10000 sooner than 5000, unless we will our selves?

3dly, Whether, after all our Arguments and Acts against a *Standing Army*, and for *Disbanding*, we still have any *Standing Army* notwithstanding? and may not soon have occasion for a greater one?

4thly, Whether our *Militia*, some Politicians would have *stand* in its stead, if managed as now, does not signifie just nothing? and if managed as some would have it, would not be the same with a *Standing Army*?

I can't see but King *William* is as well belov'd by those that must form the County Troops, as by any he has *yet* had or *still* keeps in Pay. I am sure, the *Timariots* are a scurvy sort of *Militia* in *Turkey*, towards the supporting of the Power of the Grand Signior, even to the enslaving of themselves. The *Rustholders* (as they call them) or Establish'd *Militia* in *Sweden*, are those by which their King rose to what he is, and keeps himself to what he is rose; and that is, as Great and Absolute at *home*, as *Lewis le Grand*, or the *Great Turk*: Mr. *Johns.* knows it and owns it. *Notes*, p. 5. 'Tis *Infinite Power* in *Sweden*, 'tis *Proclamation Law* in *Denmark*, and all by virtue and force of their *Militia*. The King, by our Constitution, makes Deputy-Lieutenants; the King's Deputy-Lieutenants make their Colonels and Captains; and then again, we have at best but a *Court-Army* of the *Country Party*.

I have with the greatest impartiality examin'd some late Books about *Standing* Forces; and it must be for want of *Understanding*, if I can't discover but that their Expedients are as dangerous as the Dangers they would obviate; and their Arguments as fallacious as the Times we live in: For Ill-Timed Arguments are none; and such as are fetch'd from the Monarchy of Old *Rome*, or even the late days of Queen *Elizabeth*, that is, from *Bows* and *Arrows* or a *Tilbury Camp*, from fighting of a *Spanish Armado* to the fighting the King of *France* and his Armies, are Arguments certainly, with submission, very *ill-Timed*: And though the *Histories* of *Standing Armies* may be very rightly represented and well writ, when they come to application, they must be much out in their measures and *Chronology*. *Sam. Johns.* says, The *Militia* may do *well enough to keep house*, as *Notes*, p. 82. they are; but if well *Train'd*, and made Veteran, I am sure they may as well master us at *home*, as do *great* matters *abroad*.

I have taken the larger liberty to touch upon this *one Interrogatory*, because this new sort of *Standing Army* of the *Militia*, though so much recommended in their Books, and though debated in Parliament, is not yet come to be determined by them, who may do well to take care, and find in it *more difficulty* to make them *less dangerous*, when they would make them *more useful*.

We have seen the same Parliament, who (as themselves have said) did *advise* our King *how to make the WAR*, to have found out *Ways* and *Means* for him *how to keep the PEACE*, and that was the *former Parliament* before the last; for let them also have the due honour for their Vote of Disbanding the Army, for it is to their providence we are obliged for it, as well as to the care of the last in putting it in execution: But in considering of that signal Service, it cannot but be observ'd as surprizing, to find the same Patriots that were so Zealous in their multiplied Subsidies and Supplies for carrying on of that *Vigorous War*, or the *War with Vigour*, to be as *suddenly* secure of the *Peace* with *France*, as some perhaps think they were *hastly* in declaring the *War*; and to find that *Gallick Faith* with them (which they formerly made so *Punick* too) now to be so much relied on, that we had rather trust to that, than to our selves; to a piece of Paper and Wax, than Iron and Steel; to an Article at *Reswick*, than an Army at *Hounslow*; and which, on *failure* of the King of *Spain*, we might well think must infallibly *fail* us; and then the Nation be forced to Arm at a greater Expence, when our *Quota* might have been ready at a cheaper Rate.

But as I have said, so I still say, 'Tis *sufficient* that all this they thought fit to *think* and *do*; and with that I will and do *acquiesce*, though I will not with the *Arguments* of every *Writer* and *Scribler* on the *Subject*, since there I am entitled to an equal Right of *Reasoning* and being a *Scribe*, and that, even though *Sam. Johns.* should give the Publick (which I hope he won't in haste now)

a *Second*

Vid. *Phœn. Edit.* p. 71.

a *Second Edition* of his *Phœnix Edition*, even to the *Disbanding* of *all* the *Guards* the King has yet left.

I must confess, *Tyranny* is so *dreadful* and *tremendous* a Species of Government, or rather of *Ungovernable* Rage and Anarchy, that I shall never desire to see such another King in *England* again as our *Henry* VIII. and whom I have seen stile himself, in some of his Grants, (and with too much *truth*, if our Histories don't *lye*) *REX NOSTER METUENDISSIMUS*; it signifies somewhat more than what some would insinuate, only *Dread Sovereign*, and was indeed with Him, as it sounds, MOST DREADFUL: And whatever Affection (and which is almost become Criminal) I may have had, or seem to have for Monarchy, I should *abhorr* my self, should I have recommended to my Country what some of our *New-sett* of *Abhorrers*, *Observators* and *Tories* have told them, That of all *Governments*, *that of* France *was the best*; and therefore I cannot sufficiently celebrate our *own*, when kept to its just Limitations, and *settled* on its true *Basis*: But 'tis as plain, That notwithstanding all the *Explanatory* Acts of Recognition and *Settlement*, all the *New Contracts* and *Limitations*, as well as that of their *Old Original*, we have a Sett of Politicians that like nothing but downright *Levelling*, that cry by the *State* as they do by the *Church*, and just as they did by *Sion* of old, *Down with Her, even to the ground*; LEVELLERS! that are as Mutinous as their very *Lilburn* of old, that did not only dislike, but Conspir'd and Rebell'd against that very Government for which he had fought, and as he told his Judges to their face, (of the Battel of *Brentford*) even to the *Butt-end of his Musket*, and *to his Knees in BLOOD*. I know, many have the confidence to deny we have now any Men of this *make* and *kidney*; it wou'd be better for His Majesty and the Monarchy if we had none, for they ought not to live under a Species of Government they don't *like*: the World is wide enough; *Holland*, *Switzerland*, *Geneva*, *Genoua*, *Venice*, have varieties of Air, though all more agreeable to *their Natures* and *Constitutions*. But that we have too many of them, is as manifest, when their Works for an entire *subverting* of a most *Ancient Monarchy* have the confidence to appear in publick *under* it; which, I hope, is the same to tell us, They *hope* sometime to be *Above* it: And what is more surprizing, or modestly may be thought inconsistent, is, That not only such their *Spawn* should *crawl* from the Press, but that such *Creatures* should, like *Pharaoh*'s *Frogs*, come up into any *King's House* or *Bed-Chamber*: But we find at last, to be rid of them, that *Egyptian* Prince was glad to let the Children of *Israel* go.

Vid. one of the late new *Observators*, Reprimanded in Parliament.

Vid. *Lilburn's Tryal.*

Ludlow's Papers.

Vid. *Notes*, p. 3.

Sam. Johns. has civilly *courted* and Complemented some *Jacobites* and their Principles, as less dangerous to the Government than the Doctrines of some of his *Court-Enemies*; and then, with his good leave, (though his Authority I value not) I may more safely affirm, That the most Obstinate *Jacobites* are not near so destructive, even to our present Constitution, as such *Anti-monarchical Williamites*; there is some hopes, that Time, or the Alteration of Circumstances, may alter their Minds, or take away the Occasions of their Scruples; or, that Fear, if not Love to the Government, yet to themselves, may make them live easie under it; nay, I have heard the more Angry of them affirm, That, in Revenge they were ready to turn *Republicans*; they extoll'd all these Authors Works, in order to their Conversion; and, as Convert *Ferg——n* said, Since he found *England* must have a King, he was for their having the *Right King*; so some, since they can't have the *Right King*, they are resolv'd to have *none at all*. So evidently more dangerous and destructive are *these* Mens Principles, it seems, to the present Establishment, that the greatest Enemies of it must close with them, the better to be Reveng'd: And indeed, the difference of the danger is not a little, between a King's ruling *quietly* among such as only scruple such *Oaths* as are experimentally found insignificant, and among those as cannot be *easie* till the *Scepter* is out of his *Hand*, and the *Crown* off his *Head*: And they have *Assassinated* not only his *Person* but his *Majesty*; which, as King *Charles* I. tells us, * [who was a *Martyr* to it] is only a more malicious Plot, *the compelling of a King first to follow the funerals of his Honours*, before they will *favour* him with the *kindness to be destroy'd*. Whether the *good Book* be the *King*'s or no, [though yet it be but *badly* made out that it is not] we shall not now in this place insist on, 'tis certain 'tis a true Saying, and a sad one for Kings, let him *say* it who will; and such Men can no more be thought to serve a Monarch faithfully, than Mr. *Ayloff* (one of their own *Creatures*) could imagine, when his Life was forfeited, that King *James* could pardon him, and that for the same Reason that he gave, *Because it is not in their Nature*.

* In his Εἰκων Βασιλικὴ.

Errors in Government, many times the effects of Misfortune more than weak Counsels, no more affect his Ministry than they do the Prince; some Excesses, Evil Ministers, and Male-Administration, have been, and will be, or will be found in all Princes Reigns: The most learned

learned Metropolitan Author of all Divine Politicks, with whom Mr. *Johns. fell out*, only because Preferment did not *fall in*, has admitted so much, and only would distinguish between the Manner and Magnitude of them; and that *Excess* of *Government* may be excusable in smaller matters, when in Affairs of greater moment it is not to be suffer'd. But if, according to the Principles of our *Republicans*, the *People* or Common Herd shall be *Judges* of what is *Excess*, some angry Men among the *Multitude* may be as much moved for the *pulling of* a *Flower* as the *breaking* of an *Hedge*, and be as *mutinous* for the *dispensing* with the *size* of a *Cart-Wheel*, as with the *Breadth of a Conscience*, and with the Securities of a Religion, some Men now as little regard. And if this be Mr. *Johns.* Principle, as I shall prove it is, the Reverend Bishop did him Justice if he made him *mad*, and told him the *truth*, though it made him *angry*; for such *mad work* does this Principle make with all Governments, that it fixes them on that very Precipice of Mr. *Milton's Vacuum* he would avoid, where they must *fall ten thousand thousand fathom deep, and have no end of falling.*

Dr. *B.* B. of *S* So also my Lord *Coke.*

See *Notes* on *Phœn. Edit.* p. 107, 108. *Arg.* p. 47. *Arg.* p. 16.

The *Exorbitancies* again or *Failures* of a *Government* ought never to *warrant its Dissolution: Gaveston's* and *Spencer's*, *Empson's* and *Dudly's*, *Essex's* and *Carr's*, *Buckingham's* and *Strafford's*, not to name later Favourites, will be found, upon perusal of our *British* Annals in all our Reigns, down from the first Conquests, to the late Revolutions. *Court Parasites*, *Court Favourites*, *Court Treasurers*, *Court Minions*, are as unavoidable in a *Prince's Court* as his *Court Officers* and *Ministers*, who will still be such. *It was always so*, (as the Drunken Fellow said by his Wry-Neck, when the unadvised going to *set it* was like to break it;) it is as plain as that, where *Mismanagement* commonly makes the *Complaints*, the *Love* of the *Ministry* makes the *Quarrel*. And the same is as observable in *Republicks*, where some one or other of those that have a share in the Administration of Affairs, many times engross the Peoples Favour, and their Wealth too; some of our neighbouring States know it, and experienc'd it; and we may remember, not so long since, the *Two Brothers* that bore the greatest Sway, though they fell Victims at last to the Peoples Fury too: But it would have been sure a madder Outrage, if in Revenge for the Male-Administration of those once Popular Ministers, they had fallen too into a dislike of their Celebrated Government. To fall foul on Monarchy, or every Minister of State, for every Mismanagement, which many times may be mis-represented, or from Humane Infirmity unavoidable, is a dissolving of *all* Governments, even to the Oeconomy of every private House, in which *Aristotle* founds even that of Monarchy, and is the denying a Prince that which we allow to every Father or Master of a Family, the caressing and encouraging his best Servants. And these sad Examples that have been made of Princes Favourites and Ministers, however Popular Spirits have triumph'd in their Destruction and Fall, and as this our avenging Priest, [who reviles the present Government, for not *sacrificing* them to his *Fury*,] will have always this ill Consequence, That it will make the Wisest Men and the Best, and so the fittest to serve a Prince, the most averse from entring upon any Publick Service, when the Prince's Favour must terminate in their Fate, and some Unsuccessful Attempt (though intended for the Publick Good) involve Them and Theirs in inevitable Ruine and Destruction.

Notes, p. 90, & 91.

A Power to enquire into Male-Administrations is requisite in all Species of Governments, and more-especially in that of our Monarchy; but then it is a Power that ought to be as tenderly executed, or there would be eternal work for Impeachments and Attainders: And as some would not wish to see another such a Parliament as that of *Richard* II. which was call'd *The Great*, in being compounded, as they say, of a parcel of *Packt* Courtiers, who, to make themselves *Great*, had made the Nation *little*; and in it, at last, even the Power of a Parliament delegated to a few particular Persons, [a Committeee of Lords and Commons,] and which, like those in King *Henry* VIIIth's Reign, acted only according to the Directions of the Court; [but what this King was forc'd to, to oppose the Faction of the Duke of *Glouceſter*, when the Crown was trampl'd on; Proceedings, as our Annals of the next Reign represent them, *of dangerous Example to Posterity.* As no *good Englishman* would wish to see such another *Great Parliament* of *little folks*, or any *Force* instead of *Law*; so we should as little desire the President of another in the same Reign, though it bore the *mighty* Name of *working Wonders*; and so wonderfully exerted its Power, that without Law or Process it Exil'd and Banish'd, it Beheaded, Hang'd and Quarter'd, and took away the Lives of most of the King's Favourites, the Officers of his Courts, and the Ministers of his Justice: It was *a Cruentum Negotium*, a wonderful *Bloody Work* indeed that it made, and what a Nation and People ought rather to Tremble at, than Triumph in, or Transcribe. Some Persons and People that have of late celebrated those Sanguinary Presidents of that Bloody Reign, would,

Allow'd by our Constitution a Legal Parliament, till the Law of the following Usurpation made it otherwise.

21 *R.* II. Condemn'd in his Articles 1 *H.* IV. and then Repeal'd.

would, I am ſure, be loth to have the leaſt part of them, on a Turn, now reviv'd into Practice: That *Rode caper vitim*, is more eaſily retorted than *borne*; and when *Judgment ſhall begin at their own houſe*, theſe Paraſites of a Popular Power will curſe even their own *Kalends of May*; and, of which *Cotton's Abridgment* well obſerves *Who marks this Tragedy, will not read it without Tears; and who notes the Sequel, may ſee new Lords, new Laws, and for new Bloodſhed freſh Revenge to enſue.* But whatever Exceſſes may happen on either Side, Our Conſtitution is ſtill the *beſt*, and therefore muſt ſtill continue the ſame; nor ſhall we ever get more by the altering it, than the *Romans* did, when they aboliſh'd the *Regal Power* to ſet up a *Conſular*, of which their own Author ſays,

Cott. Abr. H II.

Livy. *Conſulum immoderata poteſtas omnes metus Legum excuſſit.*

On the other ſide, I grant there are Preſidents enough to deterr Evil Miniſters from Male-Adminiſtration; as alſo to ſhew, That what they may think at the moſt but Unhappy Counſel, or Ill Conduct, has heretofore afforded Matter of Impeachment, not only for High Miſdemeanour, but High Treaſon.

The Induſtrious Author of the Diſcourſe on *Reſumptions* has given us a large Catalogue of them, many moſt unexceptionable ones, and ſome liable to Exceptions, eſpecially in their Applications.

Henry I. *Ranulphus*, a kind of Treaſurer in *William Rufus*'s Reign, was indeed Impriſon'd in *Henry* Iſt's, and under hard Dureſs, by the *Addreſs* of the *Great Council of the Nation*, [which was then the Lords and Great Men] and that not ſo much for amaſſing Riches to himſelf, as extorting it from other Subjects: For, *Expilator Divitum, exterminator pauperum, confiſcator hæreditatum* can have no other conſtruction; and it was in the following Reign, when the Fault, as well as the Revenge, ſtill ſeemeth greater.

Malmſ. p. 123.

I will impartially conſider all their Caſes, though they come to be more.

In King *Stephen*'s Reign, the Great Biſhop of *Salisbury*, [rais'd by *Rufus* for his ſhort *Maſs*] who had amaſs'd ſo much Wealth, and yet was ſuch a Beggar of Suits, that the King ſaid, *He would never give over asking:* Yet, upon the Application of the Lords, all his great Caſtles he had built, and his Land and Wealth, with Forty thouſand Marks (or *Scotch* Pounds) he had hoarded, were all ſeiz'd to the King's Uſe: And when the Synod had ſummon'd the King, it was anſwer'd, That he was not Arreſted as a Biſhop, but only as the King's Servant, that was to render him Account of his Employment. But all the while, our Hiſtorians impute this Procedure moſt to the Lords Envy, and the King's Avarice; though it was certainly an Advantageous Reſumption to the Crown.

King *Stephen.*

Henry III. In King *Henry* III's Reign, *Ralf Britton* [Treaſurer of his Chamber] was call'd to Account by him, and had great and grievous Fines laid upon him; but then we find this was his *own* Neceſſity that drove him to pillage his *own* Officers, to pay-off the *Poictovians* and Foreigners he was forced to call to his Aſſiſtance, againſt the Tumults and Inſurrection of his Subject, who made him baniſh alſo his half-Brothers, for procuring of Grants from him; and alſo Impeach the Old Earl of *Kent*, *Hubert de Burgh*, for Sale of the Crown-Lands, Waſte of the King's Treaſure; and, laſtly, [which thoſe Times held Capital] *for breeding Rupture between Sovereign and Subject, in making him annihilate, revoke or reſume Patents and Grants paſt in his Non-age.* Well! he clear'd himſelf of all but the laſt; and yet that learned Antiquary ſays he worthily periſh'd by it; *For ſuch Acts to fill Coffers* (he adds) *are ever the Ruine of the firſt Inventers:* It was for putting the King, as I take it, upon a ſort of *Reſumption*; but theſe are Times to which our beſt Patriots and beſt Antiquaries, eſpecially *This*, does not preſcribe to for Precedents; becauſe, as he ſays, *It was a Plot of the tumultuos Barons, who at the entry of the War cry'd, Liberty; and in the end, never ſpake a word of it:* and of *Parliaments, that heretofore were Medicines to heal our Ruptures, but what were now grown worſe than the Malady.* *Matt. Paris* has ſome Obſervations alſo on this King's Reign, that ſome Hiſtorians that ſerve us up ſuch Ragouſts of his Reliſhing Sentences, do not think ſo palatable, though they may be as piquant, *That he aſcended the Throne mild and gracious, eaſie of Nature, whoſe Innocence and Natural Goodneſs led him ſafe: few or none others were the Diſtempers of the State, but ſuch as are incident to all, the Commons greedy of Liberty, and the Nobility of Rule.* And the *Lichfield Chronicle* has paſſages upon this Reign to this purpoſe; *Some warm ſpirits fell in, who by ſullying the wiſdom of the preſent and the greateſt Rulers, make each caſual miſhap their Errors.* And ſome other ancient Chronicles impute the Fall of that old Favourite *de Burgh* only to the Deſire or Art he had to keep out others; which created him the Envy of moſt,

P. 6. 21, 14.

Matt. Par. Hiſt. Vit. *Hen.* III.

Cott. Poſth. p. 2.

Chron. Lichf.

moſt, and what was increaſed in the Title of Earl, and the great Offices the King then gave him, [and this has been the guilt as well as fall and misfortune of many Favourites ſince.] I would willingly ſet Hiſtory wholly in its true Light, and not take it, [much leſs publiſh it] by halves only, to puzzle or leave us in the dark; for whatever ſome think, this unhappy King was thought by others to have had as much reaſon to complain of his Subjects, as they of him, or his Miniſters; and thus indeed he is found to make his plaint.

Liceat omnibus de Regno noſtro contra nos inſurgere, ac ſi Nobis in nullo tenerentur——— Cotton *Poſt. & Chronic. Orig.*

Edward the Firſt highly Fined all his Judges, and Confiſcated intirely of ſome all their Goods and Eſtates; who though they might be Corrupt, yet this was look'd on more as the ſtrains of the Prerogative, than a Right of the Subject, to get Money to the Crown, rather than to gratifie the People.

The Fate of *Gaveſton* and the *Spencers* in the following Reign, was to fall, among other Arti- Edw. II. cles they were Charg'd with, for ill adviſing the King, for procuring Grants, for preferring their own Creatures; but our Hiſtories alſo obſerve, That their Preferments had made them the envy of the Lords, they fell Sacrifices to a popular fury, Beheaded and Hang'd without proceſs or Law, by violent Inſurrections, and open Rebellions, which terminated at laſt in the Depoſition and Murthering of the King. Precedents I hope we don't *preſcribe* to even in this Author's Opinion, whatever we do in ſome others. But this applauded Author would have been a little more fair and commendable, if he had told us of a little more than the Repeal of *Beaumont*'s Condemnation, that paſs'd at the Parliament of *York*: if that muſt be palliated, *Diſcourſe of Grants*, p. 314 [which I think wants no Excuſe,] becauſe the *King* had *made* a *War* upon his *People*, and reputed an Act of Violence, tho' done in a Legal Parliament, with a King ſitting at its Head, 15 Edw. II. according to our Legal Conſtitution: Then certainly the Executions of thoſe Favourites, was by the *Peoples* having *made* a *War* upon the *King*, and more againſt all the form of Law Juſtice. But what that *York* Parliament did do, and did declare, I reſerve for another place.

In the following Reign this Ingenuous Author has ſhewn his Ingenuity as well as Reading, in 4 Edw. III. not paſſing by the Fate of *Roger Mortimer*; ſome of whoſe Articles were for procuring Grants and Gifts from the Crown; one alſo, That he had got the King to make him Earl of *March*. An Article that muſt look almoſt a *Scandalum Magnatum* upon the whole Peerage, if it be made a *Miſdemeanour* and *Treaſon* too to be made a Peer; but I think he had other luckier or more unlucky Articles that brought him to his End: He might have told us too, it was partly for having made a *Peace* with the *Scots*: That one was alſo for being the Queens Familiar Gallant, as well as Favourite; and what is probably true alſo, [for the greateſt part of the Roll was mouldred away where his Miſdeeds are repeated, ſo long ſince as Sir *Robert Cotton* made his Abridgement.] Some of his Articles were for his being concern'd in the Depoſing and Murdering King *Edward* II. A ſort of retaliation of Humane Vengeance, that anticipated the Divine; and the more regrating, when coming from the hands of thoſe that were his Accomplices—but of this too more hereafter.

But I wonder how this long Reign comes to be run by this Gentleman into one ſhort Page, as if it afforded no more Caſes of this kind. Impeachments and Accuſations were come to be ſo common in that time, that Authors and Orators in the Houſe of Commons to juſtifie Cotton's their Impeachments for the ſmalleſt Miſdemeanors, referr you to the 50*th* of *Edw.* III. as the *Speech to the* Lawyers do to the 25*th* for High-Treaſon. But all Precedents are no Rules to walk by at all *Oxford Parliament.* times; and let Men or Miniſtry be never ſo bad, allowances muſt be made for Humane Infir- 1 Car. mities, unavoidable Neceſſities, Miſrepreſentations, and many of the like Mitigations and Miſtakes.

The Biſhop of *Winton*'s Caſe, who was put on the King's Mercy; *Lyons* the Merchant, and 50 Edw. III. the Lord *Latimer*'s Caſe; *Ellis*, *Peach*, the Lord *Nevill*'s, and to match the Lady *Veſſy*'s Caſe in *Edw.* II. [whoſe Caſe it ſeems was very acceptable even to thoſe that are the higheſt Anti-Courtiers,] we have the Lady *Alice Perrer*'s Caſe too, and yet ſome of theſe by our Roll's, *Diſcourſe*, or the Examiners of them, are judged alſo very hard Caſes; tho' ſome of them were for p. 314. getting Grants, and ſome of them indeed for Deceits and Extorſions. *Lyons* was Committed to Priſon, his Lands and Goods ſeiz'd to the King's uſe; *Latimer*'s was for Defrauding the

King, partaking with *Lyons*, as was also *Ellis* his Deputy's Case. *Peach*'s for procuring a sort
Abridg. 122. of Monopoly Patent to Sell Wine, and taking so much *per* Tunn, which the Book says he lawfully might. The Lord *Nevill* for Compounding for the King's Debts, receiving undue Wages; the very Evidences called against him excused him of the one, and he clear'd himself of the other. Poor *Alice Perrer*'s Case was for getting of Grants too, which our late Court-Ladies had better luck in: however, all of them were by Parliament Imprison'd, Fin'd, their Lands and Goods seiz'd, and the procuring Dame Banish'd. But, says the Book, *To say the*
158. *Truth of the Devil is counted commendable; the Record against the Dame proves no such heinous Matter*; but *that she was in such Credit with* Edward *the Third, and that she sate at the King's Beds-head, while others stood waiting at the Door; and the Suit for which she was Condemn'd, seem'd very honest; her mishap was, she was Friendly to many, but all were not so to her.* The Clause is Intituled, *Injustice in Parliament*, and the Record call'd *Strange* and *worthy* of *Sight*. In these Impartial Narrations and Observations, I think I do *Justice* to *both* sides; both in shewing how the smallest Misdemeanours are Cognizable in Parliament; and yet that in Parliament, Impeachments and Sentences have pass'd that have not been so Just; and what I may truly as well as safely say of this Session of *Edward* III. for most of these Judgments, in the same Reign, by the same Power, in the very next year, were mov'd to be Revers'd, and Repeal'd, and were so in the following Reign, which happen'd the next year after.

And I cannot but upon these foregoing Precedents of Impeachments, observe what my
Coke 4 *Inst. Parliam.* Lord *Coke* does upon the Jurisdiction of this High Court of Parliament: The Higher the Court is, the more Careful and Just it ought to be in their Proceedings.

The loss of a little County in *France* was laid to the Charge of Bishop *Wickham*; a very unfit Officer to suffer for Error in Military Affairs, who was so taken up with the Spiritual; yet it came to be adjudged a Capital Crime, the advising a delay of sending Forces.

1 R. 2. *Michael de la Poole* the Earl of *Suffolk*'s Case, resolves it self after all into this one grand
10 R. 2. Article, *the Purchasing* and *Taking Gifts* and *Grants* of the *Crown*; who tho' he was accused by the
P. 315. Commons in full Parliament, and was under the first most formal Impeachment, there were only Six Articles objected against him, which only came to this *One*. The other five, the Book says did but seem of *some Importance*, and were indeed but *Quarrels* and *little Matter*; The Chancellor prov'd his Gift to be but an *Exchange* with the Crown, and consequently no *Robbery*, Sir *Richard Scroop* shew'd, that the Earl by his Valiant Doings, and his worthy Behaviour in sundry Battels, and in sundry Offices both at home and abroad, had justly deserv'd what he had. The Commons reply to the Answer of the Earl [as *Cotton* says] *by urging Things to the uttermost*, and so of every one of them pray'd Judgment; and yet the Judgment by those that not only have Examin'd but Collected our Records, is adjudged a hard one.

But as far as this worthy Loyalist carries this long Case, I should be loath to extend it to the next year, for a President, to be prescrib'd to, or practis'd. I have touch'd on the *won-*
11 Rich. 2. *ders* that it work'd, and the bloody work that it made. It will be time to talk of such Presidents when [as then] we have another Parliament-Army of *Forty Thousand* in the Field; which I hope we shall not see so soon, since we have already been too horribly frightned with a Standing Army, and which once we found equally destructive, when they declar'd for Parliament as well as for the King. And it must be remembred, that this same Impeaching Parliament [most of the Members of which probably Compos'd that also of the last of his Reign,] might be said to be those also that depos'd him, and by which he came to be Murthered too. I like *good* Precedents for *Evil* Ministers, but which are better born with, than such as by Endeavouring to mend the matter make it worse; and by reforming the Court, over-turn the
Vid. *Abridg. Table.* Cotton. Constitution. The Collectors and Examiners of our Law-Records, in their Summary Catalogue of these Violences, from this Armed Parliament of *Richard* the Second, down to that of *Richard* the Third, look upon, and do call these Proceedings so many Notes above *Ela*, and say that they were acted rather by the Law of the longest Sword, than of the Parliament, or Kingdom.

21 R. 2. But as there was a Parliament that *worked Wonders*, so before they came to his Abdication,
P. 367. there was as wonderful a Revolution. It began with the Speakers [the Bishop of *Exeter*, a Loyal and good Monarchist, that adhered to the Constitution, as the Bishop of *Hereford* did
Rex unus erit omnibus. after, even in *Hen.* IV.] telling them out of *Ezekiel*, that *by any thing besides a sole* King, *no Realm could be well Govern'd, That the King had his Prerogative, to which he was Sworn at his Coronation, and if any thing was done contrary to it, the same was revoked.* With many more

prerogative

prerogative-Maxims and Expreſſions, which perhaps were more ſtrain'd and ſuperfluous, though ſo far true and pertinent. "The extorted Pardons to the Duke of *Glouceſter*, Earls of "*Warwick* and *Arundel* are repeal'd, as done by force only. *Arundel* Arch-Biſhop of *Can-* "*terbury*, is accus'd by the Commons in full Parliament, That as Chancellor he procured, and as "Chief, executed the Commiſſion made Traiterouſly in the tenth of the King, procuring the "foreſaid Lords to take Royal Power upon them; for this they pray Judgment upon him accord- "ing to his deſert. The King anſwers, the Archbiſhop had confeſſed to him how he miſtook "himſelf in the ſame Commiſſion, and ſubmitted to his mercy, however they adjudged the Fact "of the Archbiſhop to be Treaſon, and himſelf a Traytor, ſeiz'd his Lands and Goods, and Ba- "niſh'd him the Realm. [This ſhow'd they were not ſo *pack'd*, but that they did more than the "King would have them do.] In the ſame manner they proceed with their abſent Traytors, "and ſuch as they could ſeize. This is indeed *Fact*, and *Depoſing* I hope is no more than *Fact*. But if our Laws, and our Conſtitution ſhall be call'd *Force* and Violence, *Force* Rebellion, eſta- 336. 338. bliſh'd for Law, 'tis time to give up the Cauſe with our Government and Conſtitution. I care not how it ſtands *now*, but when Writers will have recourſe to old Records, only to *preſcribe* to their *new* Inventions, I muſt tell them how the Conſtitution ſtood of *old*: and theſe *o'd* Laws too, I think, [as well as *H.* IV. Bar to Grants] are ſtill unrepeal'd, and by 12 & 13 of *Car.* II. very much confirm'd. I know not one Miniſter, or regard any above their Merit; but this I know, That when Kings are to be Depos'd and Murther'd for *wuſting of their Treaſure*, the little Miniſter, or an *humble Mouſe* may well *ſubmit*.

Diſcourſe

'Tis admitted then, *Depos'd* he was, and *Murthered* too; and what the ſequel of it was, I ſhall have a better occaſion to Diſcuſs upon another Point; as alſo of the ſucceeding Example of the ſecond *Suffolk* in the Reign of *Hen.* VI. In whoſe Caſe I am glad to ſee Sir *Robert Cotton*'s Authority to have ſome weight, ſince I have ſhown ſo much to be found in him ſo mighty diſagreeable to ſome Peoples Diſcovery and Opinion, who yet value themſelves for as great Antiquarians, and Dealers in the *rubbiſh* of Records; and to whom [tho' they han't the Grace to own it] they owe all the *foundation* of their *Diſcourſes* and *Eſſays*, tho' they have built upon it with *Hay* and *Stubble*.

Diſcourſe 355.

But from the Duke of *Suffolk*, we need not deſcend ſo low preſently as the Duke of *Buckingham*. The Miniſters of *Hen.* VII. that were the Inſtruments of engroſſing of ſo vaſt a Treaſure, tho' it was for the King's uſe, that is the Publick, in *Henry* the VIIIth's Reign went the ſame way that *Woolſey* would had he liv'd; and ſome ſuch ſort of Articles as theſe help'd too to take off *one* if not the *two* great Brothers and *S——rs* in *Edward* the Sixth. But *Buckingham*'s Caſe I take to come the neareſt of any to this Duke of *Suffolk*, and who with him, but ſo little while before his Impeachment, was in full Parliament declared ſo good a Subject, and true a Patriot for breaking off the Match with *Spain*, as the other was for making a Peace with *France*; and both Impeach'd with one and the ſame Article, for aſ- ſuming and getting of *Honours*; which now a-days would be thought rather Tryable by the Earl Marſhal, than to be adjudged in Parliament. *Strafford* was once as great too with them in the Houſe of Commons; his Attainder was indeed alſo grounded upon ſome Articles of the ſame nature, and upon others of leſs weight; but of both Miniſters at laſt might be ſaid, and as I think was actually ſaid by their King and Maſter, what *Henry* IVth ſaid in full Parliament, when the Commons had Addreſs'd him to remove his Confeſſor and one *Durham* and *Croſby*, little Creatures, puny Fellows that made a little meaner Figure, *That he knew* no *Cauſe wherefore they ſhould be remov'd, but only for that they were hated of the People*. But *Strafford*'s was a Caſe ſo ſolemnly Condemn'd by thoſe that Condemn'd him, and Repeal'd by ſpecial Act ſince, that Arguments fetch'd from thence, are indeed but *Fact*.

Cot. *poſt.* 279.

Rushworths *Collect.* Jac. I.

Hen. IV. *Abridg.* p. 427.

And as the more Modern Caſes this Laborious Author has oblig'd us with, [which for the ſake of ſome Perſons and Families I will not ſo much as name] which might alſo have been carried further to ſome Impeachments of a later date in ſome late Reigns, [for thoſe of the preſent I ſhall not touch on,] do depend upon the ſame Precedents, and are freighted with the ſame weighty Articles, ſufficient to deterr any Miniſter from the leaſt Male Adminiſtration, or any wiſe or honeſt Man from medling in the leaſt with any thing that relates to the Publick: So 'tis to be wiſh'd for the good of the Publick too, that there might be ſome ſtanding Articles for Impeachments, which have hitherto generally run upon ſuch extenſive Heads, that even the beſt Adminiſtration may ſometime fall within the compaſs of ſome of their ſevere Precedents. That as my Lord *Digby* ſaid for my Lord *Strafford*, and he ſaid for himſelf,

That a *Buoy* may be laid *where* the *Anchors lie*; ſome *mark* may be *put upon the Door* where the *Plague is*, to keep us from running into Death and Deſtruction.

'Tis certain we have had of late very good Laws made againſt the *Arbitrary Power of Kings*. The Act of Recognition and Settlement, ſeems to be a Bulwark againſt any future Invader. At the ſame time we ſeem to have a King, who from his late Great Actions, as well as his late Gracious Condeſcenſions, is likely to be more forward to Invade Foreign Countries Abroad, than our own Laws and Liberties at home. And now, being well ſecur'd againſt *Arbitrary Power* on the *King's ſide*, let us ſee whether there be *any* to be *fear'd* on any *other ſide*.

Whitehall and *Weſtminſter* were never ſo far aſunder, but that it may have been obſerv'd that the Tyranny has been much the ſame, when a Court came to govern a Parliament, and a Parliament came to govern the Court. *Henry* the VIIIth's Reign affords us a Remarkable Inſtance of the one, as well as *Charles* I. a deplorable Example of the other, and that of *Richard* the Second of *Both*. Of either of which, tho' there is now no *likelyhood*, yet there may be *fear*, for what *has been*, *may be*.

It has been a Maxim among as *Wiſe Men*, and as *good Patriots* as ever *England* bred, That if ever it be *Enſlav'd*, it muſt be *Enſlav'd* by a *Parliament*. And after all, tho' we are not ſo eaſily Conquer'd by Foreigners, 'tis experimentally found we have been eaſily Conquer'd by our ſelves; and to Enſlave our ſelves by our ſelves, is as King *Charles* ſaid by his *Honours* and *Prerogatives*, an attending at the *Funerals* of our own *Properties*, *Liberties* and *Lives*.

And whatever Novelties of Notion, or Inconſiſtencies with Monarchy have of late ſet up in defiance to it, the Nation I am ſure has to its Coſt Experimented, That the admitting of a *Conqueſt* of any Foreign Prince, much leſs the *P.* of *O.* could not have been attended with ſo many ſad Conſequences, nor was not in the days of *William* the Firſt, as were the Inſults that we ſuffer'd from a Parliament-Army, The Juncto's, the Committees, the Anarchy, the Tyranny of an *Oliver* that follow'd it, and whom ſome of their own Writers have averr'd to have been one of the greateſt Tyrants that ever Reign'd. And I deſire no better Argument for the Excellency of our Limited Monarchical Government, than what the Life of one of the moſt Execrable, as well as Superannuated Rebels and Regicides does afford us; where you may *running read* in their own Writings, that by the ſame Falſehoods and Villanies they undermin'd a *limited Monarchy*, they ran themſelves at laſt into the moſt Helliſh and *abſolute Tyranny*; and ſo *fell ten thouſand thouſand Fathom deep*, 'till there was *no* end *of falling*.

Vid. Coke's *Detection.* Ludlow's *Life.* Sidney's *Tryal.*

Conqueſt indeed is a ſad State whatever Peoples Fate it be to fall under it, but yet there may be more ways of *Conquering* than *one*. It does not certainly only conſiſt in the Victory of Foreign Troops, or an Invaſion, Domeſtick Powers may do the ſame; and I ſay, and ſo will any one of common Senſe ſay, and ſo do ſome of them themſelves ſay, we were *Conquer'd* in our late Civil *Wars* and Rebellion, and that was by a *Parliament*, or elſe we were *Conquer'd* by no body; for they rais'd their Army, and their Army *Conquer'd*, and ſo they ſaw what came of it, and who but they could have help'd it. And ſo now we are come to the bleſſed *Fruits* of one and all of *Sam. Johnſ's* **beloved Maxims**, the *Fruit* of *thoſe things* of *which we were once aſhamed*, viz. That the *People are the Fountain of Power*; all the odds *is*, his Polemical **Biſhop** would have *Conquer'd us up Stairs*, and this **Prieſt** *Conquers us down Stairs*; and both ways I think we may be undone without much difference.

Arg. p. 46, 47.

Although moſt of our Modern Politicks, which from the *bare-fac'd* Prieſt-Craft they have *ſhown*, *without a Vizour Mask*, do more than inſinuate and *ſhow* from whence they come. I could never ſee what Qualifications any Prieſt had, eſpecially *this* more than another *Lay-man*, either from Preſs or Pulpit, the worſe Stage of the two for the vending of Politicks, to put upon a Nation his *Apoſtolick* Inventions, and make the *Church* the Oracle of the *State*. And ſo I hope I may with leſs preſumption addreſs my ſelf to a *ſingle Member*, than this Paraſite has himſelf to two *whole Houſes*. His Function ſhould have carried his Affairs to a *Convocation*, but for that he ſeems to have as little veneration and kindneſs, tho' Men of more *Law* than he has *Divinity*, look upon *that* too as much a part of our *Engliſh Conſtitution*, as any *Parliament* ſince King *Alfred's* days, and to be, always to be call'd Cotemporary with it, and to be as much entitul'd to his *Kalends of May*. He has prov'd a *King's Power* of unmaking Parliaments, or making them *uſeleſs* the very Bane of the very Conſtitution of our *State*; and 'tis much when ſuch Men can't admit the ſame Power over a Convocation, to be as deſtructive to the Church.

My

My honeſt aim is only according to my Princip'e, and our Laws, to *Balance Power*; and not with Turn-Coat *Whiggs*, to Libel Kings, or Parliaments, according as they like them. The Cenſures upon the Proceedings of our late Parliaments, and eſpecially the two laſt Seſſions, have been as various and intricate as the Face of Affa'rs, and the Faces of the Men that make them, as well as the Complexions of the different Members that compoſe that Great Body, and both which may be reſolv'd into theſe four conſtituent Parts or Parties, the *Tory-Whigg*, the *Whigg-Tory*, the *Downright Republican*, and the *Upright Stateſman:* For the two firſt, [either with reſpect to thoſe *within-Doors* or *without*, whatever tranſmutation they may ſeem to have ſuffer'd of late years, either from Preferments, or from the want of them, in their pure natural ſtate they are ſtill much the ſame,] and theſe Amalgamis'd Wits or Politicians, whatever Mixtures or Metals they may be blended with for the preſent, retain this property ſtill with common Mercury, that they will be ſoon reduced, upon any changing of the Texture of Affairs, and the new modification of Matter to their Priſtine Principles. For the third, He is the *downright* Contradiction to our Conſtitution, and can't alter, and one of *S. Johnſ.* and *To——d's Preſcribers* to a Democracy, or *Poliſh* Monarchy, the *Party* aim'd at in this Addreſs; and this Creature crawls in like the Serpent too, the cunningſt Beaſt of the field, mixes with the other two *Parties*, and tempts in diſguiſe; and therefore it was well obſerv'd of a Prince, [when he was told of *this Party* being for one King, and *that* for another,] That there was a *Party* too for none at all. And for the fourth *Party*, to the honour of our preſent Repreſentatives, there is ſtill left us that honeſt *Party* among them, who, to their immortal Honour be it ſpoken, ſeem to have no other Deſires and Deſigns than to keep a *ſteddy Balance* betwixt the *Prerogative* of the *Prince* and the *Privilege* of the *People*, and thoſe ſuch as both by *King* and *Country* ſhould be moſt diſtinguiſh'd and eſteem'd.

There are many Precedents to be preſcribed to of old; and alſo it is within the memory of many a Man, that where the Commons and the Court have been at *Croſs-Purpoſes*, many a Seſſion has riſen without one *Croſs* given of Aid or Subſidy, or barely conditional ones, when it can't be deny'd but after all the warm Debates betwixt the Court and Country Party, they have ſtill been unanimous in the Voting Supplies, in ſuch a meaſure as they thought the Countries they came from could beſt bear, though not, it may be, to ſuch a degree as the Court, perhaps, might want or expect, or the Publick Occaſion require. Many Bills of Publick Uſe and Advantage both to King and Subject have been preſented by them; and the two Self-denying Bills, for Unqualifying their Members for Places and Preferments, as well as the late Regulating of their *own Privileges*, and oppreſſive Protections of their Perſons againſt the juſteſt Suit, are Precedents that few or no preceding Parliaments have left us to preſcribe to: And had but the Deficiencies of Funds been a little further conſider'd, which perhaps hereafter we may further recommend, few Seſſions would would have riſen with a more *Publick* Applauſe, though never was one that did, without ſome *private* Murmurings. The King's late *Speech*, and the Commons *Addreſs*, is the beſt Confirmation of what is here offer'd, and ſo will ſuperſede the Suggeſtions even of Malice or Wit.

Abridg. p 32. 15 *Edw.* 3. p. 69. 22 *Ed.* 3. Grant only on Conditions. p. 174. 2 R. 2. deny Aid. So 5 *Ric.* 2. 11 *Ric.* 2. Grant on Conditions. p. 406. 2 *H.* 4. to the King themſelves ſet up, deny Subſidy, till Petitions anſwer'd.

It has been obſerv'd in other Reigns beſides our late ones, That as ſome of our Princes have been too *greedy* of *Rule*, ſo alſo have ſeveral of the Subjects been of *Liberty*, and this many times may make them bear too hard upon the Throne, though without overturning it; [but, as I have obſerv'd before, Our *Conſtitution* being of late years ſet upon a little ſort of new Eſtabliſhment, the Authority of which I ſhan't diſpute, but rather leave to the Contrivers of it to defend,] it muſt be but with an ill Grace, and a ſurpriſing Confidence, to ſee ſome Men to ſtartle at the Proceedings of a Parliament that offers only to *Adviſe* a *Crown'd Head*, who have been themſelves ſome of *Sam. Johnſ* 's Preſcribers to *Dethroning* and *Abrogating*, and whoſe Fathers, with a ſhorter *Cut*, took off *Head* and *Crown* together.

I muſt confeſs, *Magna Charta* may be a Law that in ſome Caſes may preſcribe Rules to a Parliament, much more to an Houſe of Commons; for if it be our Conſtitution, 'tis upon that we muſt ſtand; if we change it, 'tis no more the ſame. The 9 of *Hen.* III. and the 17 of K. *John* are altogether the ſame too, ſays an old Hiſtorian, and both agree in this point, *That no Freeman ſhall be Impriſon'd, Diſſeis'd of his Liberty and Eſtate, but by the Judgment of his Peers*; but then it adds too, *vel per legem terræ*. Now the *Lex* and *Conſuetudo Parliamenti* has ſo much of the *Lex Terræ* too in it, where it does not claſh with the Law of God, or Nature, or Nations, that ſome Impriſonments they may be impower'd to make, that may not ſo exactly agree with what is required in this Chapter of our *Magna Charta*; and therefore the Commitments that have been

In nullo diſſimilis, M. Par. fol. 432. *Mag. Chart.* cap. 29.

been of late *made*, whatever Reflections may be *made* upon them, will, beſides the Notoriety of the Facts and Offences, have this to juſtifie them, That they were Parliamentary Commitments, and that for Crimes that ſtruck at the very Conſtitution of Parliaments. I have ſaid enough in the Juſtification of the Miniſtry and of the Favourites, That they are in many Reigns too warmly and furiouſly purſued, to ſuperſede any ſuſpicion of Partiality in this point: But the *Kentiſh Petition*, for which ſome Gentlemen were Committed, as much as it may ſeem warranted by the *Petition* of Right, was certainly in the *wrong* in ſome *audacious* Expreſſions that it carried, and which the Houſe call'd *Inſolent*. For if it be but conſider'd what the Commons not long ſince did, that ſtruck at the Succeſſion, by the *Excluſion Bill*, and which Proceedings were then ſo juſtified by theſe ſort of Petitioners, how they not only confined, but over-and-above har'd, haraſs'd, and humbl'd *Sam. Johnſ.* dirty *Abhorrers*, who, out of a ſenſe of Loyalty, *abhorr'd* Petitions; and of ſuch as theſe we ſee now the Parliament it ſelf is turn'd *Abhorrers*: All that can be ſaid, is, the Tables are turn'd too, and *Sam. Johnſ.* muſt eat his Words, and eat his *Dung*.

The Parliament is ſummoned, as the very words of the Writs declare, *ad deliberandum de Arduis*; and this Petition took upon it ſelf to execute the Writ, and to tell them, as I take it, about what *difficult* Matters they ſhould firſt *deliberate*; and which in their Suffrages, by which their Repreſentatives were Elected, they had excluded themſelves from, and to which they were bound to ſubmit, as long as their Debates and as long as their Proceedings were warranted by the *Leges Terræ*, and the *Leges & Conſuetudines Parliamenti*, without any Repugnancy to the Laws of God, Nature, and Nations. For, as I ſhall further prove hereafter, I do not think, by my ſending my Repreſentative, I bequeath to him an Indefinite Legiſlative, by which, without giving an Account to his Country, he may act as he pleaſes; for this would make an *Abſolute Houſe of Commons* ten times more dangerous than the moſt *Abſolute King*: This would warrant all the Proceedings of the late Uſurped Power of Parliaments, that acted what they pleaſed without their *King*, that is, by another *Conſtitution* than that of Old *England*. By *Sam. Johnſ. Poliſh* Conſtitution, that is, by our Conſtitution to overturn our Conſtitution, this would impower them to *Vote* again, the *Houſe of Lords* Uſeleſs, and the *King* Headleſs; and warrant once *Will. Prynn*'s, and his Friend *Tom. Hunt*'s Maxims, as good as either of *Sam*'s *Two Maxims*, * That our *Repreſentatives* have a Power, not only to *alter* the *Succeſſion*, but entirely to alter the Government; † that is, from the *Imperial* Crown of Old *England*, (as our *Statutes* call it) to turn it into *To——d*'s Complement, *The moſt Potent Stadtholderſhip of* Holland: For he has made, as well as *Sam. Johnſ.* another coarſe Complement of it to the King, that is, *Anglicé*, to Unking himſelf. Theſe are ſomewhat like Col. *Titus* his Dedications to *Oliver Cromwell*, to tell him, *Killing himſelf was no Murder*. But if theſe Authors [with whom we ſhall talk further] ſhould hang themſelves, they would do no more than the Conſtitution does for them: But,

* *Poſtſcript*, p. 74.
† *Vid.* Title-page to the *Governing by Parties*.

Our Kings, at this time having no need,
Thank them as much, —— as if They did.

But as the Sarcaſm is more bitter, ſo the Jeſt is more pleaſant; ſince the Circumſtances of Affairs will afford that ſweetneſs of Revenge, as to remember and inſult a ſort of Men of a certain make and Principle, that would have ſet up in the Nation once a Popular Power, and now would further have advanced it, had it not been like to fall on their own Heads; I mean, the Proſelytes and Favourers of ſuch audacious Scriblers as preſcribe to the *Dethroning* and *Depoſing* from our *Conſtitution*, even to the overturning it; and the ſetting the *Pyramid*, that has ſtood ſo long upon its own large Baſis, upon its *tottering Pinnacle*: Theſe can't but remember, [if they wont, we muſt mind them] of what Progreſſes their Meſſengers made, not many years ſince, through every County of the whole Kingdom, hunting out *Abhorrers*, hurrying them up to the Houſe, humbling them on their Knees, after they had humbled their Pockets; thoſe Dunghill, *Dirty Abhorrers* of *Sam. Johnſ.* who thought themſelves once, equally with the *Kentiſh-men*, Loyal: 'Tis to be hop'd he is not turn'd now too an *Abhorrer* of theſe ſort of Proceedings; if ſo, having ſuch an Intereſt, he will do well alſo himſelf to Petition the Houſe againſt it; for he aſſerts all ſorts of Petitioning to be the Subjects Right: but for ſuch brazen Foreheads to affirm now, and outface us they have reaſon to Complain, ſerves only to make ſome *laugh at their calamity, and to mock when their fear cometh*: And if Judgment is begun at the Houſe of their God, they ought not to cry-out becauſe of their God, but fall down and worſhip at the feet of that Idol

Notes, p.

they

they have set up in the midst of the *Fountain of Power*, and in the *Heart-Blood* of the *People*. *Arg.* p. 47, 48.

There is no doubt, since so much disparity, but the Argument may be made good *à majori*, if the Power of our Representatives extended once to *Topham* the Subject into Custody, to *Tower* them, to *Gaol* them, to *Gatehouse* and *Newgate* them, till they had entirely ruin'd them, for every trivial expression or Words against Irregular *Petitioning* which the Laws then made Penal; that the same Power, perhaps of some of the same People and Persons, will warrantably extend to enquire into and punish the most treacherous and villainous of all Practices, and such, I hope, as *Sam. Johns.* won't *prescribe* to, the Establishing our *Constitution*, [which is founded also in Parliamentary Elections,] in the Bribery and Corruption of the Electors; a Plot laid with as much fineness and subtilty, as it was full of gross and egregious Roguery, and not to be match'd with all the List and *Band of Pensioners* they printed in the late Reigns, and these Authors have so scouted in this.

And, lasty, with *J*——*n*'s and *T*——*d*'s leave too, If *Deposing* and *Dethroning of Kings* is prescribed us by *our Constitution*, it must be admitted, that their Evil Ministers and Counsellors may be *abrogated* and *abdicated* by *Bagfuls*, as well as those Bags resumed they have been so long or so little time a filling, and the superfluous Pensions of such scribling Parasites also stopt, and then, *Rode caper vitim*, say I too; and let *Judgment begin* at the house of *Johns.* we have his Concurrence and Advice; he first directed them how to fall foul on the Ministry, got Money by it, and was advanc'd for it; he has promis'd to be at least passive in the Case, for whatever he ventures for the *King*, [whom, I shall show, he has *ventur'd* sufficiently and most abominably to defame,] he has given it under his Hand, he won't venture an hair of his head for any one or all the Ministers he has. And now what shall be done for these Men *whom the King delighteth to honour?* or what can a Stadtholder or the Supreme Magistrate of the most potent Commonwealth do to help it? See *J*——*n*'s *Notes*, and *T*——*d*'s *Parties*, pag. 58. See *Arg.* See *T*——*d.*

I think I have stated the hard fate of Court Ministers and Favourites in general with all the fairness, both with respect to themselves and the Publick, that is possible, and hope that each of them in particular, will make as fair Defences, should it come to their turn to make their Answers to their Personal *Charges*. But then again I must say, if they are offended without a *Cause*, they must please themselves without the *Means*. Many may be apt to ask them one of *Sam. Johnson*'s Questions, *Is there* not *a Cause?* and instead of being angry with others, I say, must thank themselves if *their Ways* and *Means* have been of late directed to Countenance, Caress and Advance Persons and Principles that stand in Contradiction to the Constitution of our Monarchical Government, that care no more for *Kings*, than they do for his *Ministers*; that first Libel them publickly, and then are prefer'd for it as openly; not excluding from the number the Sons of Rebels and Regicides, whose Fathers not only *Dethron'd* but *Murther'd* Kings; whereas Parliamentary Enquiries into Male Administrations were never yet question'd, much less so much reproach'd, as by some People we may find them to be; tho' by some too, that once thought with my Lord *Coke*, they were never to be limited, by *Measure* or *Time*. 4 *Inst. c. Parl.*

Huic nec metas rerum nec tempora pono.

If *Prerogative Men*, [whom *F. S.* calls so in ridicule, but whom the Law calls in earnest the Assertors of the Laws, when it calls the *King*'s *Prerogative one of* the *best parts of the Common Law*, so long as they don't advance the Prerogative beyond it] should have been guilty of any strains in their Reasonings, and which upon assigning error they may be ready to retract, and which even from their Principles they need not be, because the Law gives our Kings as much as they need desire; and I desire they should have no more than the Law gives; yet under our Limited Monarchy, the Principles of Democraticks are ten times more incompatible with our Constitution, and not to be reformed; and therefore we find their once Celebrated Mr. *Ferguson* ingeniously confessing his opposition to the late Government not so much the result of his aversion to King *James*, as his hatred to Kingly Government. And tho' obliged by, as well as Indebted to King *William*, declar'd, since he found the *old English Genius* [I don't mean *Sam. Johnson*'s Genius] was so *addicted to a King*, he had *Plotted* for *its old King*, and old Mr. *N.*——*ll* was ingenuously fair, when ask'd his sense of the Revolution, frankly own'd, *they had done well to Abdicate one King, and had done better if they had not taken in another.* *Arg.* Stamford *Prerog.*

ther. I like plain dealing, 'tis better than the *Dolus*, 'tis a Virtue, and even a Friendship in an Enemy.

But for a *Church* of England *Priest*, or even a *degraded one*, to come and *prescribe* to the *State*, for the Constitution of *England*, [which the Statutes call the *Imperial* and *Hereditary* Crown,] the Doctrines and Maxims of *Abrogating* and *Dethroning*; and which even the *Revolution* and *Convention*, as we shall shew, took care to avoid and obviate, is a boldness to be found only in this Author. I am sure our Church Articles have nothing of it, or our Law-Books; the *P.* of *O*—— did not accept the Crown of *England* on the same Conditions the Duke of *Saxony* did that of *Poland*. And tho' we have a good *Magna Charta*, we have old Englishmen enough left to keep it from coming to a *Pacta Conventa*, and that it must do, if *we prescribe* to *Abrogating* and *Dethroning* by *our Constitution*. But tho' a Chaplain to an House of Commons, when he comes to be a *Court-Chaplain*, may chance to forget his old Masters, if he does not *revile them*; this may serve for an Answer to their Reproaches, *ante manum & à priori*, That most of the Persons whom in our late Sessions we may find them to Censure for their popular Proceedings, have been the greatest Assertors also of the Prerogative, and granted as Liberally the Subsidies and Supplies to the Crown, as the most forward Minister that was to find his Account in them, or out of them too. And I may add further, that when some, who may be more in favour [which yet with a King should look a little like a Paradox] were for caressing and advancing of the only Regicide that was left alive, one of *S. J*——'s Men *to be honour'd*, or in *Ch. Finch*'s Sense rather *to be preferr'd*: for all he came so far for it, some of these very Representatives they would now reproach for Invaders of Prerogative, put the Hook into the Nostrils of the Regicide, whose Neck I must tell *Sam. Johnson* was *worth his Halter*, and so return'd the Leviathan into the Deep again from whence he came; who otherwise from the Principles of this Priest, must have *prescrib'd* again to be no *Less* than a *Major General*.

Arg. p. 47.

And 'tis to be hop'd, [because the contrary not to be fear'd,] from Balanc'd and Unbiass'd *Prerogative-Patriots*, who have deny'd their Prince little, and themselves much; who have supply'd their King, and eas'd their Country, and both as far as conveniently they could. That they will take care also, that from such good Mediums they will never suffer any side to run into Extreams. That those who have so industriously detected the Bribery and Corruption in their own Constitution, will take care also of that *Constitution* to which we truly *prescribe*, and take heed of those *Snakes in the Grass*, the Church *Socinian* and State *Republican*, that seem to be at the heels of our Monarchy and Christianity together, and let the Vipers sting none but those that warm them.

And that they graze and go together I will give them their own Authority for it. *Sam. Johns.* could not handsomely else have ridicul'd together Old *Littleton*'s *Ung Dieu, & Ung Roy*; nor *To*——*nd* made a *Stadtholder* of the *King* of *England*, before he had made no *Mysteries of his Religion*. And that they abuse their *King* alike, as well as their *Religion*, their *Works* will evince which will *follow them*, as well as they would have them much follow'd. I shall give a few Instances from out of the one, and have more in reserve for the other. *Sam. Johns*'s *Travelling-Religion*, and *Down-Stair-Deliverance*, are the *Presents* too he makes a *Complement* of to the *King*; and Mr. *T*——*d*'s Complements, tho' they may run in Rhime, don't go upon better feet. *The Satyr against the Foreigners*, *The Governing by Parties*, and *Our Religion no Mystery*; tho' three Pieces, are thought to come *all* of *a Piece*, and a little of what some of these say, I shall crave leave to insert.

Vid. *Notes and Kalends.*

We are told, *That all our Plagues were cram'd into the single Person of a King*; That the *Murthering* him at his *Palace Gate* was the *Glorious* Feat of our *Forefathers* [Executed as I take it, on King *William*'s Great Uncle and Grandfather.] But these are *Complements* as *S. J.* says we may now a-days make to our King; but I take these *Complement-makers* for such a sort of *Cotterels* and *Complementers* of Majesty as *Judas* was, when he cry'd *Hail Master*, and then delivered him to *be Crucified*. For 'tis plain King *William* is upon no better foot with them, than his Royal Predecessors; as well as some others think him to stand on a worse; for by these Maxims, [as *S. J.* says, he foretold of King *James*] the *Ground must fall from under him*. And in Mr. *T*——*d*'s Poetry, [to verifie this *Samuel*'s Prophecy,] our present *Nobility* and *Commons* are called *base Dastards*, and *servile Souls*, because they *Bear* and don't *Rebel*. But least this Anonymous Piece should be disown'd by this suspected Author, there is some Poetry much to the same purpose, which the Preface makes *Toland*'s; where one of our best

Foreigners, a Poem.

Ibid.

Clito. p. 10,

Princes

Princes may be reckon'd to be expoſed too among our *Ambitious Tyrants*; to be Juſtly *tumbled* from his *Throne*, and to *expiate* his *foul Crimes* by as Ignominious a *Death*. That a Senate with a few Magick words can raiſe and clear an Army, make the *Good Old Cauſe* to *Triumph*,

And to Reſtore the Nations perfect Health,
Deſtroy our Kings, and form a Commonwealth.

But by *the Soul* of *him who kill'd* JULIUS, I would deſire theſe Dedicators and Compli- *Clito*, p. 10, mentors to tell me then by theſe their *Principles* and *Maxims* what muſt become of their 11, 12. King *William* the *Peoples Darling*, their TITUS or *Veſpaſian*. The King's Political Capacity and Perſonal are (with them) certainly not ſo far united, but that his Perſon will be no King when his Crown is gone. *A Cat* [as they ſay] *may look upon a King*, and a Cat in the Window, is moſt like a Cat out of the Window, but it is not ſo in their Kingſhip, where Puſs in her Majeſty, and Puſs out of her Majeſty, are different things. And yet I affirm, thoſe that wound the King as theſe Fellows do, even with their Compliments, Aſſaſſinate his Royal Perſon when they Murther his Majeſty; for when the King of *England* once is gone, the Supream Magiſtrate of the moſt Potent Commonwealth will infallibly follow and go with him. And if theſe *God-like Brutus*'s chance to kill the *Dictator* too with the *Cæſar*, it will be too late to Compliment him with the *Italian* Ruffiano, *I was miſtaken Sir, I beg your Pardon.*

In ſhort, King *William* is as much obliged to this *Johnſon*'s Faction, this *To——d*'s Faction, as the Stadtholders were to the *Barnevelts* and the *De-Witts* Faction. But however, King *William* is oblig'd, I confeſs, to theſe Courteous Gentlemen, *that* they leave him the *Name* of a *King*, or give him leave to call himſelf a *King*. But I muſt tell them, and that becauſe *this* Piece *Art of Governing by* will prove to them too, That our Conſtitution-Law makes the King of *England* a King to all *Parties*. p. 32, Intents and Purpoſes. Inveſts him with all Regal Power and Dignity, that any of the Kings of 33. Europe have or had, unleſs it be that Power of playing the Tyrant, and breaking through thoſe Laws that make him a King, and which is only *S. J*'s dark ſide of Impotency. And even for *that* I affirm and ſhall prove thoſe Laws do not *preſcribe* to *Dethrone* and *Murder him*. We have none of Mr. *T——d*'s *Spartan* Kings here, none of his *Venetian* Dukes, or *Dutch* Stadtholders here in *England*; they are Styles, Titles, Dignities that belong to other Countries; we underſtand our *Monarchy* as well as we do our *Language*, and know what ſuch Men mean by their *Commonwealth*.

But I muſt Examine this *Party-Man* a little further, who ſeems himſelf a ſort of *Party per pale*, for *Parties* and *againſt* them; and 'tis no matter what *Party* he is of, who ſeems to have no *Part* in our Religion or Government. He ſeems ſuch an unlucky *Party-Man* as is always detach'd to be ſtill on the Forlorn, to make his Excurſions on all Parties, and yet to bring home no Booty. But the bottom of this ſetting up againſt *all Parties*, by thoſe that are but of *one Party*, the *Commonwealth-Party*, was indeed well timed, when they apprehended the King inclining moſt to what they call the *Church of England Party*; which is indeed a *Party* of Men [if they will call them a Party,] that have been the beſt Aſſertors of our Monarchy ever ſince the Reformation, and with whom even King *William* muſt *ſtand*, or *fall*. And 'tis very obſervable, this Piece was a Publiſhing preſently, upon his Majeſty's having declar'd or intended a certain Noble Peer for his Deputy in *Ireland*, whoſe Abilities to *Govern*, as well as intereſt in what muſt be the *Governing part* of the Nation, and all thoſe Relations and Tyes he had of Fidelity to the Crown, had rendred him acceptable to the King, and agreeable to the People; and diſguſtful to none but ſuch as cannot reliſh this Eſtabliſhment of our *Church* and *State*.

This Author tells us, ever ſince the *Stuarts* Acceſſion to this *Imperial Throne* of this Realm, P. 8; which [I thank him] is indeed as our Statute-Books *call it*, and not as Mr. *T——d*'s Books would have it, *the Stadtholderſhip* of the *Realm*: We have known [he ſays] only the *Art of Governing by Parties*: all theſe *Complimenters* of King *William* ſtill agree in one Topick with the late Rebels and Regicides, to vilifie all the Family of the *Stuarts*, as if King *William* that *Johnſon. Jones. T——nd. Buchanan. Needham. Ludlow, &c.* came from the ſurer ſide of them had nothing of any concern in the matter, or any of the Blood in his Veins; and the *Tragical Hiſtory* of *the Stuarts*, as well as Old *Buchanan* makes it, but a bad ſort of Blood indeed; and if theſe Men muſt make themſelves his Majeſties Minions, I deſire to be excus'd for a Favourite. But I muſt tell Mr. *T——d* none of thoſe *Stuarts* ever *Govern'd* in *England* by any Party, 'till in the end King *James* endeavour'd it; and what it coſt him, he found to his Coſt. Both he and his Brother Indulg'd once all Parties, and

ſuch Parties as were no more to be obliged than truſted; and what both found to be true, but neither from *James* the *Firſt* to the *Second*, did any of them *Govern* by any Party but the *Church* of *England*; for when they left it, they loſt their intereſt in the *Government*. And that I averr too to be *No Party*, but the beſt *part* of our Engliſh Conſtitution, to which we near for 200 year *preſcribe*.

We neither hear of *Tories*, *Whigs*, *Papiſts*, *Presbyterians*, or any other *Recuſants* or *Diſſenters* ſince the Reformation, in our Laws and Government accounted as part of our Conſtitution; they are made Criminal by it, and accountable to its *Laws*; and tho' a late *Northern* Judge in a *Weſtern* Circuit, made it equally penal to diſturb a Conventicle as well as a Cathedral, yet two plain words will make a very *Legal* difference, as well as Timber and Stones make a *material* one, or a Tub differs from a Pulpit. For any *Lawyer* beſides himſelf, would have allow'd, that even in Law, a *Toleration* ſounds quite another thing to an *Eſtabliſhment*. The Wiſe Prince that *Governs*, will *find* at laſt, if he has not already *found*, after all the Vizards and Veils theſe *Venetian Panteleone's*, or Buffoons of our Monarchy have put upon our Conſtitution, That the Church Pillars will be the beſt Supporters too of the State, and the true Profeſſors of it his beſt Subjects; and that tho' they did not, in ſpight of all Toleration or Licentiouſneſs, [which let *them* for me as freely enjoy,] ſo much out-balance all the reſt; ſuch as are reconciled to the *true Principles* of our Limited Monarchy, upon which the Conſtitution is founded, in oppoſition to Tyranny, and not in Conjunction with their *mixt Principles* of Democracy, upon which Mr. *J.* and Mr. *T.* [as he tells us] would *form their Common-*

Clito. p. 11, 12. *Wealth*. Theſe are as oppoſite as the Head and Tail of the Dragon, in which Aſtronomers place their Eclipſes, and which ever will confound and obſcure one another. And that this is not meer fancy or affectation, (our Hiſtory down from the Reformation will evince) the Infant Liturgy, or Church-Eſtabliſh'd under an Infant King, obtain'd ſuch footing, that the *Governing part* ſoon lay in the hands of the greateſt Promoters and Profeſſors of it. Neither that ſhort Proteſtant Reign, nor Queen *Mary*'s Popiſh one that follow'd, were Misfortunes great enough to weigh her down ſo, but that ſhe roſe under the weight, and higher in the ſucceeding Reign, and then was Crown'd with that Palm, with which ſhe ſuffer'd. The 5th and 6th of *Edward* VI. and 1*ſt*. *Eliz*. are Acts that will Evidence that what I here offer is not only Truth and Reaſon, but Record and Statute Law, which I take it, muſt affirm our Conſtitution. That good Proteſtant Queen, as many of her Acts ſhow, was far I think from favouring of thoſe they then call'd Sectaries, much more from *Governing* by *them as a Party*. King *James* the Firſt follow'd her ſteps to the great regret of all *Diſſenting Parties*, who gave both trouble enough, yet both Triumph'd over it, by adhering to the Eſtabliſh'd Church, which was ever more than a Party.

And tho' it was the hard Fate of that Unhappy Prince King *Charles* the Firſt to fall a Victim to theſe Fellows falſe and villanous Principles, only for adhering to her, let them boaſt their Victory, and Triumph in that Blood they ſhed, with the Hereſie and Anarchy they introduc'd; it was not to be done, 'till they had undone us and themſelves; neither was that *Church-Party* over-power'd, 'till all was run into an entire Anarchy and Tyranny both of Church and State; and they found it a Conqueſt upon the Nation, and a more miſerable one than any they yet ſuffer'd by *Foreigners*; Mr. *T*— had then his *Commonwealth form'd*, and what came of it?

What it came to, we ſaw in the Reſtoration both of *Church* and *State*, which we could not be without. And the Reign of King *Charles* the Second: where whatever *Articles* or *Promiſes* were made for Toleration, which doubtleſs had been better kept than broken, I am ſure there were no Articles or Promiſes of that King [as falſe and impious as their lewd Libels would make the good King and Government] of *Governing* too by *the Diſſenting Party*. I am ſure the moſt vexatious *parts* of his Reign were when he once favour'd them with a Toleration, and afterward, as ſome thought, the Popiſh *Party* with *ſuſpected* Connivances. Both thoſe I take it occaſion'd thoſe *Querelas & Ambiguos de principe Sermones, & Turbamenta Vulgi*, as appoſite here, as an Author has it of another of our Reigns. This caus'd the only difference between him and his Parliament, which he might well, as ſome have imagin'd, not long before his Death, by a firmer adhering to the Eſtabliſh'd Church [that is our true Proteſtant Intereſt] have ſome thoughts to Compoſe; and for the Wafer ſome ſay they got into his Mouth when his Jaws were ſet, and the poor Man had no *Teeth* to *eat his God*, if it were true,

abates

abates nothing of the force of my Argument; for in whatever *Church* he *dy'd*, he thought it his interest of *State* to *Govern* by, and to *Live* in the Communion of the *Church* Establish'd.

It was King J——'s Fate or Infatuation in the Reign that follow'd it, to change his Politicks, or Opinion in this Point, which by the very first Act of his Reign he affirm'd to be quite otherwise; for the first Declaration that ever he publish'd, profess'd his Inclination to adhere to, and *Protect* the Church of *England*, because its Principles were for Monarchy, that is, *Protected* him. And I think he found the Lives and Fortunes of the Dissenting Addressors at last to fail him as much, as the Passive Obedience of the Church, tho' that the least of all to be reproach'd by the former, since the one was provok'd into a defection, the other only oblig'd into a Fidelity, which terminated in a deeper Ingratitude; and he found at last to his Cost, what this conceited Author, and little fondling of a small Party, would make but a Party too, the *Church-Party*, to form such a Body of the *English Nation*, that all the other Parties, with all his Countenance and Favour, and all his Force too, could not contend with. But for a Prince to be *Complimented* to establish his *Throne* upon Mr. *Johnson*'s prescription of *Dethroning*, or Mr. *T*——*d*'s Magistracy, is indeed one of Mr. *Milton*'s Vacuums, an emptiness that has no *end*; these their *Down-stair Compliments* can never take, or last long, being ten times worse than if they had kick'd a Prince Up-stairs. For a Monarch to imagine that the Caressing of a Commonwealth-Party can help to establish a Crown, must be only such a Crown as *S. J.* says is not *worth* the *wearing*; for he advises him not to stuff it with any Prerogative-stuff, or as *T*———*d* would have it, without keeping so much as a Minister of State about him, but what is of *His Party*. But I can compare a Prince's Caressing of such a *Party*, to nothing better than a Man's Courting of the Embraces of the *High-Dutch* Damsel they in some parts of *Germany* make their Executioner; which hugs a King as the Devil does a Witch, and will Cut him in two, when once got in its Clutches; and an *English* Ax, or a *Scotch* Engine, we know, can do the same.

Arg.

Notes.

If any of our Ministers have felt the effects of these Authors Democratical Principles, that will leave the King no other Ministers but of their *Party* and Choosing, and call all those that are not, *base Prostitutes*, *Cormorants*, *Blood-suckers*, *Harpies*; nor a power to reward any of the best Ministers he has, were they of the best Party—— If so, I hope they may thank themselves, for Caressing Men of such Principles, for Patronizing of their Works, and suffering them to be publickly and pompously Dedicated to the *King* himself. But though Mr. *S. Johns.* Dedicate to the *Parliament* on the one *side*, and Mr. *To*——*d* to the *King* on the other *side*; 'tis to be hop'd too, both a Wise *King* and a Wise *Parliament* will see what *Side* and *Party* they are of, and find them fitter for the *other side* of the *Water*. We know they are for none of our *Lion and Unicorn* Supporters: They will be always a struggling for Liberty, till they have laid aside the Monarchy, and *form'd*, as well as *cry'd up* a Commonwealth, and *fish'd* us out of our *Troubled Waters* another kind of a *Lion*, with a *Luctor & Emergo*.

To——*d* of Parties, *p.* 101, 105, 106.

Vid. *S. Johns.* Notes. *Arg.* p. 19. Vid. *T*——*d*'s Parties, p. 112, 148. and *Clito*, p. 10, 11, 12.

There remains one Grand Point to be *balanc'd* more, which lately, by a learned Hand, was put with the King's *Right*, against the Peoples, into the Scales; and upon its being weighed in his *Balance* indeed with the *Mene Tekel*, it was found wanting: but it must be admitted, that in so tender a Point, the least wrong touch or mistake will turn the Scales: And I dare venture to do so far Right both to *King* and *People*, as to prove, That though our Laws are not such as those of the *Medes* and *Persians*, that alter not; yet as our Laws have hitherto stood, and now may still stand, the *Right* of making *War* and *Peace*, *Treaties* and *Alliances*, was ever *Indefinitely* and Legally lodg'd in the King and Crown. I shall not attempt so much to prove it from the *Jus Gentium*, or *Jus Regium*, where any Regal Government obtains, but from our own *Municipal Laws*, the Common and Statute Law of our Land; and a little *Hand Writing* of a private Man, I hope, will not alter them.

That I may not be mistaken, or as much *mistake* the *Point*, as I am afraid that learned Doctor does, [who from his true Monarchical Principles I knew he profess'd in the late Reigns, I cannot suppose made this Discovery to favour a Democracy in this,] I must premise, First, That I do not in the least detract from the Wisdom of the Parliament, to expect to be consulted in such great Matters of weight and moment that concern their *Country*, though never so much the highest Point of the Prerogative of their *King*; no more than I do from the Prudence of the Prince, in graciously condescending to Consult and Advise with them, and Communicating all to them of Matters that relate to those Grand Turns and Transactions of *State*. The King, he has done no more, upon their late Addressing him, than what his wise Predecessors did of old,

to lay Affairs before them; and they, like our ancient Wise Parliaments, have done no more but left it again to Him to exercise his Right and Regal Power, in manner and form as he should judge most fit. And that learned Writer has prov'd no more, than that our Kings anciently did so Consult, and our Parliaments of old so Advise: But this whole Work was as accurately done to his hand, by that learned Antiquary Sir *Robert Cotton*, in a little Treatise wrote in King *James* Ist's Reign, and not with so much dislike of the King and Court, as they make the Message to shew which that King sent to the Commons; the learned Knight civilly address'd it to the King and Court, and it was as kindly receiv'd. I confess, it was three or four years after the Roughness of that Message he had sent them in the 19 of his Reign, which by that time was softned; but all that is there proved, is so far from making *Peace* and *War* to be any way lodg'd in the People, or not absolutely in our Kings, that some of the Instances there given, make it, from the Peoples Concessions, to be entirely the King's Right.

Vid. *Cotton's Posth.*

That learned Antiquarian will give this late Author a very good Reason why *Ranulphus de Glanvill* had no reason in *Henry* IId's Reign to mention any thing of this Point of Right to be, without any restriction, the King's Right; *Because*, says he, *our Kings at that time had no Commons to Advise with, much less Dispute that Right with him, every Man in* England, *by Tenure, held himself to his Lord: In vain, before the 6th of King* John, *and then but darkly from Record, we seek for any such Council call'd, and find no clear footsteps for it till the 49th of the next Reign of* Henry. III. So that Dr. *Brady*'s scurvy Pedigree, so scouted by *Johns.* and *To——d*, our *John-a-Nokes* and *John-a-Styles* of the Law, is as learnedly maintain'd by one of the greatest Antiquaries of the last Age.

Ibid.

Arg. p. 2. *Parties*, p. 40.

It is but a bad Argument and Inference, to conclude, because a thing is not express'd, that it is not imply'd; and that will answer, I hope, for all *Bracton*'s, *Britton*'s, *Horn*'s and *Fortescue*'s faults, in not recording it. The *Jura Coronæ*, and Common-Law Prerogatives, were ever better known than explain'd, and more generally receiv'd than question'd: And if *Bracton* gave the King the *Material Sword to keep the Peace at home*, I can't see how the same Material Sword had not also the Power of making *War* abroad, they being both alike necessary for the good Government and Protection of the People.

Essays, p. 133

Neither, by this Author's Acknowledgment, had our ancient Kings, soon after the Conquest, any occasion of Consulting so much their Subjects upon the Emergencies of War or Peace;

Essay, p. 13. "since our Princes then had so much of Crown-Demesns and Lands that ow'd them Military "Service; the want of which, make their Wars now, in a peculiar manner, to affect the Body "of the People, and consequently the Executive Power of it to be more vested in them.

Indeed, I must confess, the Alienations of the Crown-Demesns and their Tenures has weakned much the Regal Power of our Princes; and I believe that worthy Author is not for Re-assuming or Re-annexing them also to the Crown, to restore, with them too, the King's ancient Power and Regality; *that* might bring us to Knights Fees and Knights Services again, what the good King *Charles* of late exchanged with us for a less slavish Tribute, and, as Sir *Robert* observes, heretofore made our Condition no better than Villanage; the Lords Infeoffed their Followers by the two famous Infeoffments, *De Novo & De Veteri*; and the Provisions for the Wars was assess'd by the Hydage upon them, which the Lords impos'd after such an Arbitrary manner as if they had been *all Tyrants*. So that it is but an uncomfortable Prescription to send us back to see what *William* I. and his Barons did consult upon, either in *Normandy* or in *England*. All the first five or six Reigns, while King and Barons thus *Consulted* and *Agreed*, the Commons were not much Consulted in Peace or War, when they were made but their *Common* Prey, till in K. *John*'s Reign, when that King found the Barons beginning to make great Depredations upon the Regal Power, call'd in the Commonalty to curb their Tyrannous Aristocracy: And all that were Consulted in those days upon these Points appear to be no more Parliamentary Consultations, than when our late Kings, upon the same Occasions, Advised on the same Subjects with their Lords and Privy-Councellors about their Court.

Cott. Posth. Ex lib. in Scacc.

Matth. Paris, totidem Tyranni.

Essay, p. 139. But our Author is so unhappy, that where he should begin to prove his Argument, he proves the quite contrary, and that King *John* was the first Maker of Treaties without the Consulting his Barons and Great Men, which is a Proof they were anciently not Consulted but at pleasure; whereas *Cotton* tells us, [the greater Antiquary of the two] That the King first (as may be gathered, though darkly, by the Record) used the Commons Counsels and Assents, about the 6th of his Reign, their first Writ running, *Tractaturi de magnis & arduis negotiis*, and that that was about a War of Defence against the *French*. Though, I confess, the Private Treaty he made

Clauf. 6 *Joh. in* 3. *dorf.* *Cotton*, 15.

made with the Pope, was such a Treaty of Alienation of his own Kingdoms, without Consent of his own People; and so much transcending any Treaty of Partition that can be made of another Prince's Kingdom, that as there is no Parallel, so the Author, I think, had better not have brought it in for a President.

In *Henry* IIId's Reign, the *Essay* gives us agen another unlucky Specimen both of the Author's Oversight, and, as he makes it, of another Precedent, *That Parliaments were not Advis'd with by the King.* But *Cotton*'s *Essay* proves the quite contrary, and that his first Parliament, that was Conven'd of *Bishops, Lords, Knights* and *Burgesses*, much in manner, though not in matter, to those of our Times, were, by the very words of their Writ, call'd *Pro Pace assecurandâ & firmanda.* It is well known what a Peace it was; to make a *Civil Peace* after a *Civil War*: And I hope I shan't offend the Ingenious Author, if I carry his own Argument further than he does himself; and yet I will engage, the *King's* Regal Right of Making and Denouncing *War*, and then of Treating about a subsequent *Peace*, shall not suffer so much as the least diminution. For his *Royal Power* of *doing* or *not doing* it, of *advising* or *not advising*, confirms the *Right* in him, as much as his *Royal Negative* or *Assent* does the *Executive Power*, and the Sanctions of all Laws, notwithstanding they are both in their Bills Preferred and Advised by the *Two Houses.* They were all our *Kings* own Acts to *advise* in this Point with their People, and which any *prudent Prince* will actually do; for it was inserted in one of King *Edward* Ist's Writs, in these very words, upon occasion of their Summons about the *French King*'s Invading our Territories in *France*, *Lex Justissima provida circumspectione stabilita, ut quod omnes tangit ab omnibus approbetur.* It was in the *King*'s Power either not to have summon'd, or not to have inserted these words in their Summons; and an Argument *de facto ad Jus* is but a lame one, and so consequently are all the rest that he brings; and from whence he first fetch'd them we have shown, and how ill he applies them is shown too; for that Author from whom he borrows his *Essays*, never design'd *his* for the ill Uses this most extensive Author has stretch'd them to, much less to Rob the *Regal Power* of its Right, for he tells us in all the Passages which he had collected, [and which this Author may have collected from him,] he observes in most of these Cases, "As the *Sove-* "*reign Lord* would entertain the *Commons* with the weightiest Causes, so their modest Answers "were always a Rule for ignorant Liberty to form their Duties, and humbly to entertain such "*weighty* Causes at their *Sovereign*'s Pleasure, and not with any wild fancy of a Factious Spirit.

Pag. 15.

Clauf. *Edw.* I. in 3 *dorf.* and so Clauf. 34.

Cotton, p. 34

These *Consultations* were all carried on upon the *Sovereign*'s *Demand*, and not the *Peoples demanding* it as a Right. King *Edward* III, in whose Reign are the most Instances of these Consultory Advices, *demands* them, and charges his Subjects upon their Faith and Allegiance to give it him: And the Roll of this Reign this Author has more ingeniously publish'd, than elaborately answer'd, says, That upon their Advice *demanded*, the *Commons* answer'd, *They were unknowing in the Matter, and could give no Advice in it*, desiring the *King* to procced as the Wise Men of his Council should advise, shows it plainly a *Jus Regium*, whatever warpings it may be forc'd into for a *Popular Right.* But then, in another Roll in that Reign, [that might not be so industriously sought after, if not designedly omitted,] which says, "The *Grands* and *Commons* being called to "Consult about Defending the Marches of *Scotland*, and Securing the Sea from Foreign Enemies, "the *Commons* desire not to be charged to Counsel in things *Des queux ils nount pas cognizanze*; "They don't so much as *desire the King to Consult his* Lords *in this Point, or any Circumstance ap-* "*pears, that the Commons were injur'd or anger'd.*

Cotton, p. 18 6 & 7 *Ed.* 3. Sess. 2. 21 *Edw.* 3. No. 4 & 5.

Cotton, p. 19. *Roll*, p. 13. *Edw.* 3. *Essay*, p. 147-148.

I must crave leave to mind this careful and impartial Author of one Instance of *Consultation* more he has not disingeniously omitted in the next Reign of *Richard* II. It is of the 6th of his Reign; of which I find though he says something, he does not say all Sir *Robert Cotton* says, (viz.) *The same Year the State was re-assembled to Consult whether the King should go in Person to rescue* Gaunt, *or send his Army.* After two days Debate they crave a Conference with the Lords; the Effect is not entred in the Roll, but they bid Sir *Thomas Puckering*, their *Speaker*, Protest, *That Counsels for War did aptly belong to the* King, *and his* Lords; and by which is more likely meant the *Lords of his Council*; for so it was in the year before explain'd, *The King, by Advice of a great Council of Lords gathered at* Windsor, *determined to make War.*

Cotton, p. 24. Parl. 6 R. 2. *Abr.* p. 193. 5 R. 2.

In the 7th of *Richard* II. our * *young Antiquary* (if I may so call him) agrees with our † Old one, That the *Commons* being *demanded* to give their Advice about the Peace with *France*, answer'd, *That they could not nor durst not Advise their Liege Lord either to* War *or* Peace; *but only, that they would do the one or the other if they were Kings of the Realm, or in the condition their King was in; and that they understood the Lords Spiritual and Temporal only said much the same, That if they were in*

* *Essay*, p. 162. † *Cott.* Parl. 7 *Sep.* Sess. 2. They modestly excus'd themselves, as too weak to consult in such weighty Affairs.

in the King's *condition, they would prefer Peace*; but at the same time protest, That they may not be charged with having Advised in this Matter, or Counsel one way or other: They agree in their Answer with the *Prelates* and *Lords* in every Point; and this, and no other Answer than what the *Prelates* and *Lords* made, do they give.

In the 17th of the same Reign the *Parliament* is charg'd agen upon their *Faith* and *Allegiance* to Counsel the *King*, and do not *demand* it as their *Right* to do it: *For* (as * Sir *Robert* says) *the King would have it, and Commanded Advice of his Lords and Commons*: And the same says our *young Antiquarian*. Here we have for Twenty Years together, and his Reign only Two and twenty Years, even this *Richard* IId's Reigning in the Hearts too of his People, Consulting and Advising 'em on all Occasions; and it was not his *Speech*, of *his being at large and at liberty to Command his People, to dispose of his Goods*: which, as it gave the first Disgust, so it was one of the last they suffer'd him to make; his Resignation, or *Dethroning*, as some will have it, following soon after. For some Authors say, † *Never had the Subject more Wealth and Liberty than at that time, and so might be the more greedy of Rule*: But the true Cause was, the *Popular Party*, that (as ‖ Sir *Robert Cotton* observes) was first so carefully studied by him that was his Successor, as needing all to support his Title: And we have had more *Monmouth's*, besides him, that did the same; but, I hope, not by the same Argument should have been placed in the Throne. It might have supplanted else the Succession of another Warlike *Prince* of as much *Courage* and *Vertue* that came after.

* Vid. *Abridg. Pref.* of *Will. Prin.* 14 *Cases*, and pag. 51, 88, 193, 287, 288, 300, 353, 361, all Precedents in *Edw.* III. as well as *Ric.* IId's Reign, how *unable* and *unwilling* the *Commons* were to Advise in *Peace* or *War*.

† 1 *Hen.* 4. A. B. of *Cant.* observes how Rich we were in *Richard* IId's Reign.

‖ *Posth.* p. 28.

Essay, p. 176.

Abr. p 568. 2 *H.* 6. In *Henry* VIth's Reign the *Commons* send certain by Name to the Duke of *Glouceſter*, Protector, to desire him to *vouchsafe* to make them privy to the Treaty of the *Scots* Embassador, about the Delivery and Marriage of the *Scottish* King: An *humble Petition*, instead of a *demanded Right*. The 23 *Hen.* 6. Saving Clause, in the same *King*'s Reign, has no Reserve in the least that respects the *Subjects Right* to be Consulted in *War* or *Peace*, and consequently does not Invade the *King*'s: It saves to them *Essay*, p. 187. their *Laws*, *Freedoms*, *Customs* and *Privileges* in *general*; which, by their Indempnifying them in that *particular Point*, they would not make a Precedent for *Indempnification* upon all or any future *Invasion*.

Hen. 7. From the 7th and 12th of *Edward* IVth the *Journals* of *Parliament* were but ill preserv'd, and not carefully Entred, as Sir *Robert* observes, to the 1st of *Henry* VII. where he tells you only of *one* Instance of Advice, where the *Commons* Petition the *King* to marry *Elizabeth* the Daughter of *Edward* IV. and *two* of *Henry* VIII. the first about his *Wars*; the next, to void *Hen.* 8. the Marriage of *Anne Cleve*: And that *Prince*'s Advising with his *Parliaments*, ought, of all, to Parl. 3. 32. be the least *prescrib'd* to for Precedent, since it tended so far from Limiting the *Prerogative*, that it serv'd only to run it up to the higher pitch of *Tyranny*; for 'tis well known, all the Exorbitances and Excesses of that Reign was owing to his *Parliaments*, and he wisely colour'd his Actions with that Authority which seems to Enslave us by *Law*, and *all* were only such *Parliaments* [saving his first, that helpt to hang *Empson* and *Dudley*, his Father's *Blood-suckers*] as *Richard* II. had in the last of his Reign, for which they made him Resign, or *Depos'd* him (as *S. J.* and his Adherents have it.)

Edw. 6. In *Edward* the Sixth's Reign it seems, tho' there were Wars in *Scotland*, and Jars with *France*, almost as long as it lasted, the ingenuous Author frankly confesses, he cannot find that in these Matters the Parliament was ever advis'd with, but all of it was managed by the Court and Council. The *Quinquennial* Parliament's long Sitting, with his good leave will not Apologize for the Matter, it only affords more matter to imagine, that if they had look'd on *Peace* and *War* as their *Right* to have been Consulted in, they had the longer time and leisure to Consult and Claim it. We are more beholding to them for the many good Laws they made both for our Liberty and Religion too, than to think them so supinely neglectful of the Publick, and the variance at Court, between the various Factions, and the two great Brothers, gave them the fairest opportunity to exert their own Power, instead of being managed by a Court Party.

Q. Mary. The little Relation the two Precedents he brings in Q. *Mary*'s Reign have to this Matter, have fallen so short of the Point, that indeed they are not long to be insisted on. No one will deny but Parliaments have Address'd to their Princes about their Marriages; Queen *Elizabeth's* did so too after this of Queen *Mary*, but met with a little sharp rebuke for it, as a Matter they were not to meddle with; and the other Instance proves no more, than that the Queen desired a

Supply

Supply for the publick Occaſion, and putting the Nation into a poſture of Defence, which in moſt Reigns has been ever the ſubject of the Prince's Speech at the opening of a Seſſion.

The next Reign of Queen *Elizabeth* is indeed honeſtly introduc'd, more to make out the Catalogue of our Kings, than the force of this Argument; and I muſt confeſs, 'tis the fairneſs and ingenuity of any Author not to paſs by what makes againſt him, while he is gleaning up what he can for his purpoſe. But then ſomewhat indeed muſt be ſaid to thoſe things, to which we can ſay nothing; for certainly it is but a bad Argument of this Queens affection to her People, and *right* Inclinations to the Realm, for her to invade the Peoples Right in ſo high a Point: That when ſhe had in her hands ſo many Publick Concerns relating to *Peace* and *War*, as the aſſiſting the United Provinces, after they had eſtabliſh'd their Revolt by the Union of *Utrecht*; Aſſiſting the Proteſtants in *France* when in Arms againſt their King, for which ſome Authors ſay we brought home nothing but the Plague, tho' they were Enterprizes Nobly undertaken; for aſſiſting the Diſtreſſed, and preſerving the Reformed Religion, and which I urge only to ſhow, that the greater the Points were, the greater Reaſon there was for Adviſing with her Great Council, when *Spain* was provok'd and *France* too, and *Scotland* privately Treated withal, which might have Embroil'd us at our very doors; and *Ireland* alſo in an open Rebellion—formidable enough for her to have had recourſe for Advice, or her Parliament to have taken the Liberty to have interpos'd with it, if only for the ſaving of their *Right*. Q. Elizabeth *Eſſay* 197.

It is indeed a Womans Reaſon this Learned Man gives that they would not be ſo rude with ſo good a Lady, as to preſs ſo roughly upon her, out of *Reſpect to her Sex*; but I think rather the better Reaſon was, that ſhe had ſuch a manly Courage above her Sex, as once to tell them, *that* in theſe *Matters they had nothing to do to meddle*. And beſides it is but an ill-offer'd Precedent, This their being ſo *Reſpectful* to the Sex, as if the Peoples Right was to be Complimented away for the ſake of the Fair, and the tenderneſs of the ſoft Sex, eſpecially ſince we have no Salique Law in *England*, and have had ſeveral, and may have more of that Sex for our Sovereigns. But what makes the Argument as weak as the Sex, is, that our Author does not admit they were ſo full of reſpect to the Female Queen that Reign'd but juſt before her. And if the Encomiums of her Excellencies and Virtues muſt excuſe her Subjects from inſiſting on this their Right, the Claiming it ſo zealouſly now, will lay ſome hard Imputations upon a Prince who has of late been much the Subject of their Panegyricks. Ibid.

But where the *Right* lay, is clearly by the conceſſions of the Contenders decided in the next Reign of King *James*, where it was Canvaſs'd by both ſides and confeſs'd, and ſo 'tis by this Author, who yet for Argument ſake, muſt ſay ſomewhat.

The Commons even here never inſiſted on it as their Right, but on the contrary, by his Conceſſion diſclaim it, and ſay in their Addreſs, *That to the Royal Authority only it belongs to Reſolve on Peace or War*. Theſe are the plain words to diſcover the plain ſenſe of that very Parliament, and all, and no more than as I ſhall ſhow, the plain words of our Laws: the Sophiſtry of diſtinguiſhing between *Authority* and *Prerogative* ſignifie not one Farthing; they may ſerve to expoſe the weakneſs of the Author, who at firſt ſight ſeems Robuſt enough; and I am ſorry too that in this Point he ſhould fail of that fairneſs of repreſentation, as well as reaſonableneſs in his inferences; for tho' he may make ſome Cavil about the word *Prerogative* and *Authority*, yet what the Parliament call'd *Regal Authority* will be found by thoſe that do not ſtick at words, to have the ſame ſenſe with the *Regal Prerogative*, and their two Addreſſes make them the ſame. And if that be the Great Point of the King's Prerogative, to exert it ſelf upon neceſſity, to burn Houſes, deſtroy Forage upon an Invaſion; the King's Prerogative is no more than what was once my Lord *Craven*'s upon the Invaſion of Fire, who never fear'd to *Blow up* one Houſe to *Save* another; and the ſame Prerogative may be transferr'd to any of the *Black-Guard*, as well as the Royal-Regiment. But I think *Stamford* and my Lord *Coke* make another kind of thing of the Prerogative, when they affirm it to be *the beſt part* of our *Common Law*. *Eſſay*, p. 204. 205. Cokes *Inſtit.* Stanford *of Prerog.*

But how this Point ſtood decided in this Reign, is eaſily to be ſeen by the Impartial Collection I have made out of two Collections, which are thought not to agree ſo well in one, *Ruſhworth*'s, and *Nalſon*'s, and ſo the faireſt procedure is to examine both.

But firſt I muſt introduce as preceding both theirs for a Precedent, the Preamble of the Remonſtrance of the Houſe of Commons that was preſented by them to this King *James* the Firſt, and drawn up by Sir *Robert Cotton*, which begins thus: **We your Lords Spiritual, &c. having**

Cotton. Posth. having received out of your meer Grace and Favour and your Royal Commands [words that I think will *entirely* wave all *Right*,] to declare unto your Majesty our Advice and Counsel, for the further continuing or final breaking of the Two Treaties between your Majesty, the Emperor, and the Spanish King, touching the Reduction of the Palatinate, &c. but the strains of Ingenuity I confess are so powerfully prone sometimes to perverse mischief, that many times they prove nothing, by endeavouring to prove too much. And some Essays are like what the Foolish Man made with his weak Bridge, who try'd how much it would bear, 'till it broke.

The down right partiality, if not dishonesty, which appears in Mr. *Rushworth*'s Speech of King *James* I. in 1620. and of all the Days in the Year on the 30*th* of *January*, which Speech this Clerk or Collector murthers, as well as the Rump Parliament the King, is so plainly detected by Dr. *Nalson* in the Collection he has given of it, with the Manuscript he got from Arch-Bishop *Sancroft*, that no Man of Learning or probity, much less of an once exorbitant Loyalty, all which this Author seems still to affect, would have sent his Reader to such a Collection of Essay 200. Speeches, Messages and Addresses; for he well remembers 'tis not so long since Mr. *Rushworth* was of no such *Authority* with him, and that for writing so much against the *Prerogative*.

King *James* tells them in *that*, *'Tis a vain thing* for a Parliament to press to be Popular, That they are us'd only and created by Monarchs, That they serve under a Monarchy, and must stand and fall with it. Indeed it was none of Mr. *Rushw*—Principle to think this Doctrine fit for the Press, and so we find not a word of it in his *Speech*; and yet even in this Speech with relation to *Treaty*, Mr. *Rushworth*'s Speech speaks plainer than the Speech of Dr. *Nalson*'s *M. S.* where he makes King *James* bluntly tell them *That he has treated a Peace*, and *therefore* will not be a *Party*, which the M. S. only Phrases, *I have been a medler between them, &c.*

Even Mr. *Rushworth* is so fair as to observe of himself, That tho' the House question'd some Illegal Patents, *howbeit* they *touch*'d not *the tender* Point of Prerogative, but in restoring the Subjects Liberty, were careful to preserve the *King*'s *Honour*. And the Speech the King made P. 24. to his Commons in the 19*th* of his Reign, even as Mr. *Rushworth* words it, is such a winning one, that I think the Commons could not have been tender enough of his *Prerogative* or *Authority*, who was so careful and tender in it of their Liberties and Privileges. In their Ad-19 Jac. 1621. dress or Declaration upon parting, they tell him, That if his *Majesty*'s Endeavours by *Treating* for a Peace have not that good effect, that then upon *signification* of his *Majesty*'s *Pleasure* they shall be ready so to assist him, *&c.* That he may be able to do that with his *Sword*, P. 36. which by a *peaceable* course shall not be effected. I can't see what Right of Peace or War they arrogated to themselves in this Discourse, unless the discoursing about the Sword; *put the Sword* P. 40. *into their hands.*

Nevertheless says the same Author, tho' the King declared for War, he pursued Peace, and resolved to close with *Spain*; words plain enough to prove that he had both a Power and Will to do which he pleased. And the King's Letter to the Speaker [that anticipated any other Answer to their Remonstrance, and which seem'd both mild and reasonable, *no ways pretending* to press upon his Majesty's undoubted and *Regal Prerogative*, much less to assume to themselves the *Right* of War or Peace] was in so rough a Stile, that it prohibited them to *meddle* with *any thing* that *concern'd* the *Government*, or deep *Matters* of *State*, with some other P. 44. threatning Admonitions; that to avoid Precedents for the strains of Regal Power I forbear to repeat, and their humble *Petition* upon that angry Letter which accompanied their Remonstrance, which says expressly *that in their Discoursing of these* Matters, they *did not* assume *to themselves* any *power* to *determine* of *any* part thereof, nor intend to incroach or intrude upon the *Sacred Bounds* of his *Royal Authority*, to *whom*, and to *whom only* they acknowledge it doth belong to resolve of *Peace* and *War*, and of the *Marriage*, &c. I hope shows, this Ses-Essay p. 199. sions and *Parliament did not exert* themselves in that *manner* this Author would make them, for touching those *higher Points*, they tell him they *expect no other Answer*, *but what in his* own time and good pleasure he shall think fit. A Man I hope may *advise* with his *Servants* about his Oeconomy [as King *James* told these were *to* his *Monarchy*] without delegating them a *Right* to be his Masters. And the Answer he gave their other Petition, shows I think too that he did not give up those Points, unless it was in telling them too, they in *determining* them would *commit High Treason*, and that they are not to be handled in Parliament unless the King require. *Ne Sutor ultra Crepidam*, &c. And their *Protest* upon their Adjournment shows they only claim'd a right and freedom of *Speech* and *Debate* about these Matters, but

what

what mov'd even that peaceable King so much, *that* he call'd a full Council, sent for the Judges, call'd in the Clerk of the Commons, Commanded their Journal-Book, declar'd the Protestation void and invalid; with his own Hand took and razed it out, and Commanded this Act of Council to be made, and Register'd for a Memorial, and so in six Days after Dissolved them. Vid. Collect. P. 54. Memor. Manu suâ propriâ.

And what Course was afterwards taken with many Members, I leave this Learned Antiquary to enquire, desiring not so much to give Precedents for these stretches of the *Royal Authority*, as some do for the asserting of a *Popular Sway*. Precedents of these kinds may both run into Extreams, and prescribe more to mischief than convenience.

I think here has been enough prov'd to show the Commons in canvassing this Great Point in this King *James*'s Reign, were so far from not giving it up, that they never insisted upon it, but utterly disclaim'd every thing of that *Right* this Author claims for them: For 'tis plain he does not mean only a *Right* to *Advise*, for then he may as well by the same Argument claim for them all the Sovereignty, from their having a right to be Consulted in all the *arduis Regni*; and his Essay makes this *Right* not *Indefinitely* lodged in our *King*; whereas the Petition and Remonstrance above-mention'd, I think *Defines* that the Right of War and Peace do belong to him, and him only: And if this be not Indefinitely, I am sure it confines it very closely: and if it be part of this Author's *Legislative Authority* [which he lodges as much in the House of Commons as the King, which yet by his leave I shall shew in another place, our Constitution and Law-Books do not allow] then, no Peace or War, Treaty or Alliance could be made without an Act of Parliament, which I conceive we don't prescribe to. And when King *James*'s Necessities oblig'd him to call one of his last Parliaments, in which this Author says, he spake to them in another manner, he gave nothing up I am sure of this point of Right; and Sir *Thomas Crew* that was their Speaker, in his Speech does as much acknowledge this Right, as the Commons did before in their Remonstrance, where he says, That every particular Member with *one voice* had given his Assent to that *Advice*, which his Majesty was pleas'd *so low to descend*, as to *demand* of them; making his earnest Prayer to Almighty God to direct his Majesty's Heart, to make his *own Sword* his *Sheriff*. If it were such a Condescention in the King, I hope it must disclaim the Right of the Subject, and if he has a Right to *demand* it, they have no more Right to demand than to refuse, and their Speakers Act I conceive to be that of their House also. Pag. 132. Jac. I. P. 209. P. 211. Rushworth, 146.

King *Charles* the First telling them in his first Speech, *That he wanted Money to carry on the War of the Palatinate*, was I hope no *giving up of the Point neither*; indeed from our Author's way of arguing, it is a *strong* Argument, because Money is many times among Politicians called *the Sinews of War*, and that indeed the Commons *give*; but for his *Power of the Sword*, I am sure that King would never *give* it up, 'till they wrested it from him by an Ordinance of the two Houses; 'till they drew their own Swords, and drew so much blood of his Subjects, and his *own* too at last. Their Votes indeed for *raising an Army*, was an assumed Right of War to pull down the King's *Standard*, and their Votes of *Non-Addresses* a strong proof that the King could not make Peace. But in the assuming these rights, I have the good nature to think even this Author conceives them to have been much in the wrong.

And all the Foreign Instances and weak pretensions he gives us of this *Right* in *Charles* the Second's Reign, are answer'd in those few words of that King, the same Author gives us—*That they Intrench'd on so undoubted a Right of the Crown, That in no Age was the Prerogative of War and Peace so dangerously Invaded*; and the Commons answer, *That they did only offer their humble Advices*. By the same Arguments he may make the Parliament to have made the War upon *Monmouth*, for King *James* the Second Communicated to them his Invasion, and they Attainted him for it, and by that Attaindure Defeated and Beheaded him for it. And I hope King *William* is not thought with them to have given up his Right to War and Peace by having now *Consulted* them in it, since they so civilly leave it to him to act as he pleases; which this over-industrious Author has taken much needless pains to make out, That our Princes all along did Advise, seeing it is no more than what a more Learned Antiquary had so long since done to his hands, and no more than what might bear at every Paragraph the Burthen of the *Ballad*, P. 132 220.

Which no Body can deny.

But now for affirming of this *Regal Right*, [as all the History he has produc'd has not taken it away,] so I must show him how our Law does fix it not to be *moved*.

The Law of Royal Government is by our Lawyers call'd the *Law Fundamental*, that is, in which the Government is fixed and founded, and upon which depends the Formation of all other *Law*: For the *Executive Power* of making any thing a *Law*, which was before but a *Bill*, it places in the *King*; and so it does this Power of making *War* and *Peace*, most *essentially*, *Fundamentally*, and that is as good as *indefinitely*; and puts the Sword into his hand not only by the *Constitution* and the *Common Law*, but by all *Law Books* and the *Statute Law*. Before *Hen.* IIId's time this *Sovereign Power* was larger; and since, in this Point, of no less extent.

7 *Edw.* I. 5 *Hen.* 4. 1 *Jac.* I. Vid. 4. Part *Institut.* 2 & 3 *Ed.* 6. 11 *Hen.* 7. 4 & 5 *Phil. & Mary.* *Plowd.* p. 315.

The Statute of *Edward* I. does put at large the Power of the *Sword* and *Militia* into the *King*'s Hand; and this was there declared in full Parliament. The Old *Commission of Array* did the same in *Henry* IVth's Reign; and though Repealed in Queen *Mary*'s, the Repealing Act was Repealed again in 1 *Jac.* I. and as they warrant him the *Right* and *Executive Power* of the *Sword* at *home*, so they impower him to carry it *abroad*; for his Subjects, according to their Duties, are bound to serve their *King* in his *Wars beyond the Seas*, as well as on *this side*. All Commissions to levy Men for *War*, to wage it, is awarded to and by the *King*, to whom the *Power* of *War* is said only to belong by the Statutes of Queen *Mary* and Queen *Elizabeth*.

2 *Hen.* 5, c. 6. 19 *Ed.* 4. 46.

The Statute of *Henry* V. plainly expresses, *That to the King only it belongs to make Leagues and Alliances with foreign Princes*; and Resolved also, by Statutes and Law Books, *That if All the People of* England *should break a League made with a foreign Prince, without the Kings Consent, the League holds good, and is not broken.* Neither was it ever known that *either* or *both Houses* ever made a *League* in *England*, till they made the *Solemn League and Covenant* with the *Scots*, and *formed* it (as Mr. *To——d* would have it *Reform'd* agen) into a *Commonwealth*.

As for the Great Article that has been so much agitated of late, about the Grand *Treaty of Partition*, as it was the *undoubted Right* of the *King* of *England* to *make* and *form* such a *League* as in his Judgmnt he thought most fitting; so it was *undoubtedly* an *Error* in his *Ministry*, in such a Conjuncture of Affairs of the highest Importance to our Selves, as well as all *Europe*, in not deferring its Execution till the *Parliament* had been Consulted in it: But whether such an *Oversight* deserves the construction of *designed Prejudice* to the Publick, and the most Zealous Prosecution, must be left to the Wisdom of that *Great Council* also. That there are Precedents for such *Impeachments* upon the same *Points* and *Articles* is obvious to any one that has but read our *Annals* and *Records*; and I insist upon a *double Account* on *this*, because I promis'd it upon *another*.

28 *Hen.* 6. *Abr.* p. 641.

The Great Duke of *Suffolk*, in *Henry* VIth's Reign, had *Articles* of this kind exhibited against him, as the greatest they could charge him with:

Articles
2. *The Treating with the Duke of* Orleans, *and with* France.
3. *Treating with other Embassadors about* Manns *and* Maine *to be assigned to the King of* Sicily.
8. *Fortifying the King's Enemies, by not compromising in the last Peace the King of* Arragon, *who is almost lost, and the Duke of* Britanny, *lost.*

But these *Charges* seem'd the harder on this Noble *Peer*, 1st, Because, as our *Rolls* also have it, not above five Years before, the *Speaker*, on behalf of the *Commons*, made to the *King* especial Commendation of the Person and Services [of the same Duke, then Earl of *Suffolk*,] expressing, *namely, for the Abstinence of War with the* French, *&c.* For all which, at the Request of the *Commons*, and Mediation of the *Lords*, it is Enacted, **That the said Marquess should be holden a most True and Faithful Subject.** *High Honour* enough, one would think, in the *High Court of Parliament*, not to be turned into *High Treason* by the same *High Court* in so few years after. And in the same Parliament, the *Chancellor of England*, in the Name of all the *Lords*, and Presence of the *King*, protesteth, **That the Peace which the King had taken with the French King was of his Motion and Will, and not any of the Lords Provocation**: the which is Enacted. And also, **It is Enacted, That a Statute made in the time of Henry V. That no Peace should be taken with the French King, without the Assent of the Three Estates of both Realms, should be utterly Revoked; And that no person, for giving Counsel to the Peace with France, be at any time to come Impeached therefore.**

23 *Hen.* 6.

2 & 4 *Hen.* 6. p. 630.

I have only *Three Observations* to make upon these *Three* Grand Points:

I. If our Rolls and Records are of that *Authority* for Asserting the *King*'s *Prerogative*, that they are for Affirming the *Subjects Liberty*; here is the Sovereign's *own Act*, *Motion* and *Will* made to justifie the *Subject* in the Point of *Peace* and *War*.

II. An

II. An Act that look'd like a Derogation to the Royal *Prerogative* or *Authority*, [let our Author call it which he pleases] made in the foregoing Reign, Reſtraining the *Royal Power* of making *Peace* to the Aſſent of the *Three Eſtates*, utterly Revoked; and this Act now upon the Roll as much in force and unrepealed as that of *Henry* IV. which of late has been urg'd in Bar to all Royal Grants.

III. That no Perſon, for giving Counſel to a *Peace* with *France*, be at *any time* to come *Impeached* therefore: A *Rot. Clauſur.* that comes ſo cloſe to ſome *Peoples* Caſes, as well as the *King's*, that if it have the *force* of *Magna Charta*, and be ſtill in *force*, *becauſe unrepeal'd*, as ſome Author's Arguments are when fetch'd from the Rolls; the *Sovereign's Right*, as well as the *Subjects Safety*, ſeems in theſe Points to be equally ſecured by it to *all futurity*. *Eſſays* of Reſumpt. *Peace* and *War*, &c.

I have treated this Author, though a bold Aſſerter, with all the modeſty due to his Character, and becoming mine, with the more Reſpect, and the more cleanly, becauſe he writes ſo: But as *Fact* is but *Fact*, ſo Argument is no more than Argument neither; and induſtrious Authors, though never ſo diligent in ſearching Records, muſt needs ſlip ſuch Clauſes as make againſt them, and which they are not looking after, when they can't pretermit any thing that ſeems to make for them, and upon which they are ſo intent.

There are many Caſes in our Annals and Records upon which, in theſe Points of Adviſing *Peace* and *War*, *Treaties* and *Alliances*, Impeachments have lain againſt thoſe that Counſell'd them; but I have inſiſted, I think, more *wiſely* and *impartially* upon this particular one, becauſe it equally ſeems to aſſert the *Subjects Safety* as well as the *Sovereign's Right*; and to ſhew, That as *Parliaments* have been of old Adviſ'd with in theſe Points, ſo it is the *King's Right* to execute them; and was once the *Subjects* [whatever it be now] not alway to be Queſtion'd or Condemn'd upon any unfortunate or evil Counſel given thereupon.

And for my particular Judgment of that late *League* which has created with us ſo much *War* and *Diſſention*, I do not doubt but it was better *intended*, than it was *drawn*, or *proved*: And though the *Draught* had been never ſo curious or cautelous, there is no *arming* by any *Treaty* againſt Thoſe who are wont to *obſerve* none, or ſuch as can take up *Arms* under a profound *Peace*: And if the *Fox* himſelf had parted it never ſo well, the *Lion* would have found Titles enough to every Part. Yet I muſt confeſs, the firſt ſight of the *Treaty of Partition*, by that ſight I have had of *Europe*, made the *Diviſion* of the *Parts* ſeem to me as dangerous as the *parting* with the *Whole*; and by annexing ſo much, and particularly ſome Parts of *Spain* to *France*, left all the Reſt to it too, by giving up *Guipuſcoa*, and the Paſſage to *Madrid*, and what in one *Article* is truly call'd *il Paſſagio*.

But I am afraid it is too late to Cavil and Quarrel about *who* and *what* has occaſion'd it: An Univerſal Empire is now without diſpute in ſo fair a way to be advanc'd by the Houſe of *Bourbon*, beyond what ever it was by that of *Auſtria*, [and that is, to bring the Liberties of *Europe*, and the Religion of its Proteſtants, to lie at *Mercy* and at *Theirs* too with whom 'tis *Cruelty*,] that *all* Chriſtians, and *many* Infidels, will believe the *one*, and all that are not *Papiſts* muſt believe and fear *both*. So that all Perſons here at home, of *Church* or *Conventicle*, *Tory*, *Jacobite*, *Papiſt*, *Whigg*, *Presbyterian*, *Quaker*, *Prerogative-man*, and *Commonwealth-man*, even Mr. *To——d's Party* of *Foreigners*, muſt all make but One *Party* now, to divert this dangerous Storm that threatens the *whole* State of *Europe*.

France had ſuch open Advantages, and ſuch reſerv'd Intreagues in her Contrivance to bring about ſuch a *League*, that beſides the old Fable of the *Lion*, ſhe ſeem'd to verifie the modern Story too, and the *French Ape* to make uſe of the *Engliſh* and *Dutch* as a couple of *Cats* to paw out the *Spaniſh Cheſnuts* that were too hot for her elſe to meddle with; and what I could not but think much the ſame as if the *Will* had been already made in its favour, and which I not only imagin'd, but often ſaid, would ſoon follow. For,

Though *Spain* had all the Points of Honour, Intereſt, and Gratitude, to perſuade or oblige her to prefer the Houſe of *Auſtria* to that of *Bourbon*, ſince the firſt refus'd the *Partition* when offer'd, the latter contriv'd it; yet as the *Diſmembring* their *Monarchy* did not only make them angry, but almoſt mad, to do what miſchief they could to *Europe*, ſo the ſweetneſs of Revenge againſt two *Proteſtant* States, that had thus helpt to part them in ſunder, might well make them more willing to unite themſelves to one Monarch, who has ſo ſignaliz'd himſelf the ſworn Enemy to *both* Them and their Religion. But I hope we may yet live to leave them, for their good *Spaniſh Will*, this kind *Engliſh Legacy*;

Sweet is Revenge juſt in the Taſt,
But ſurely Bitterneſs at laſt. *Tunbr. Fable.*

France seems to have taken care, by the many *Salvo's* and Proteſtations *de Jure* entred in the Parliament of *Paris*, that the *two* Crowns are in a fair way to make but *one*; the *Spaniſh Netherlands* look too like *United One's* already, and the King of *Spain* for ſome time like to continue a *Minor Pupil* to his *Grand-Pere*. All the Hopes *Spain* has, or *Europe* [whom ſhe has Enſlav'd with her,] is, That her Young King may live to be an Old One, and ſometime look upon himſelf as a Naturaliz'd *Spaniard*, and an Independant Prince, and endeavour to make his Kingdom ſo, in ſpite of all the Charges he has, or Proteſtations he has made, never to forget thoſe Relations and Obligations he has to *France*.

This may be believ'd, I confeſs, by *Spaniards*, whoſe FAITH, as well as their WILL, runs much in favour of *Miracles*; and which has bequeath'd alſo in the ſame *Will* the *Immaculate Conception*, as well as the *Kingdom*, to the *French* Succeſſor.

But to come to the General Deſign of this *Diſcourſe*: Whatever fooliſh Apprehenſions my weak Underſtanding, or Panick Fears, may ſuggeſt to me, of our being by ſuch Authors as Mr. *Johnſ.* or Mr. *To——d* put in an hopeful way to *Dethrone* our *Kings*, and to *form* a *Commonwealth*; I can fear nothing of that kind from Men of a *true Church of England Principle*, from *Men* that profeſs equally to defend the *Prerogative* of the *King* with the *Liberties* and *Privileges* of the *Subjects*, from *Men* that have ſuch a particular Affection for this preſent Prince, and give ſuch Heroick Characters of King *William*. *Thoſe* that make him to *make Kings*, can never make him a *Stadtholder* here, or a *King* of *Poland*, with the *Crown* of Old *England* upon his Head, and its *Government* upon his Shoulders. *Thoſe* that give him a *Right* to *form* a *League* for the *Liberties* of all *Europe*, can never queſtion his *Right*, when, for the ſame Reaſons, he *divides* a *ſingle Monarchy*: And, laſtly, *Thoſe* that have ſuch Abilities and Opportunities, and ſuch Veneration and Regard for the learned Reſearches into *Rolls*, *Records*, and all the Sacred *Rubbiſh* of Antiquity, [where I deſire no better than the *Quomodo Legis*:] *Thoſe* that have ſuch an Eſteem for the Venerable Duſt of that truly learned Antiquary Sir *Robert Cotton*, who under his Hand has left us all the Subſtance of thoſe ancient Remains; *Thoſe*, I ſay, can never think of a *Commonwealth* in *England*; and therefore to the Works and Maxims of that much-eſteemed Antiquary I refer them.

Arguim. Clito.

Eſſay on Gran. p. 21, 22.

356.

To——d.

They are no fooliſh Obſervations of that wiſe and learned Author of this laſt Age, and who nearly liv'd to ſee them verify'd over again in the hard Fate of King *Charles* I. " That to our " *Commons* the preſent Days ſeem always the worſt, who commend the paſt Ages they never " remembred, but condemn their preſent Times, though they neither know the Diſeaſe nor " the Remedy. With theſe ſome warm Spirits fall in, who by ſullying the Wiſdom of the " preſent and Greateſt Rulers, make each caſual Miſhap their Errors, and ſeem to decypher " every Blemiſh in the Government; and then, by holding certain imaginary and phantaſtick " Forms of Commonwealths, flatter their own Beliefs and Abilities, that they can mould any " State to their general Rules, which in particular Applications prove only idle and groſs Abſur- " dities, ſuch are Darlings of the Multitude, as Pillars of Publick Liberty, and Oppoſers of en- " croaching Monarchy; Spirits of as much Acrimony and arrogant Spleen as the Places from " whence they are elected, Camp, Court or Country can afford, which ſow the Grounds of " the Peoples Diſcontent. —— *Querelas & Ambiguos de Principe Sermones & quoque alia tur-* " *bamenta Vulgi.* To endear and glorifie themſelves with the ſenſeleſs Multitude, all bear " themſelves like Tutors and Comptrollers, few like Subjects and Councellors: more ſenſible " of their own Neglect or Diſgrace than of others Miſery, make the Publick but a Pretext for " their own private Intereſt: They Imp their Wings with Eagles Feathers, and like no Game " but what is raked out of the Aſhes of Monarchy; till at laſt, by changing the ſole Power into " the Rule of Many, they think they have ſuppreſs'd Licentious Sovereignty: but the Conſe- " quence is, that every Man begins to eſtimate his own Worth, and hammer his Head upon " every Deſign that may enlarge his own Power and Command; and renting aſunder the Regal " Juſtice, make themſelves, of ſo many Subjects, [as the Book of St. *Alban's* ſays] *totidem Tyranni.* " In every ſhift of Princes, there are few either ſo mean or ſo modeſt that pleaſe not them- " ſelves with ſome probable Object of Preferment. Few or none were the Diſtempers of the State, " but what are incident to all; the *Commons* greedy of *Liberty*; the *Nobility* of *Rule*; no other " *Diſquiet* did the *State* feel, but what is common to all, the *Malice* to *Authority*. *Great* and " *Good* Men may ſecure themſelves from *Guilt*, but not from *Envy*. *For the Greateſt in Truſt of Publick Affairs are ſtill ſhot at by the aſpiring of thoſe that deem themſelves leſs in Employment than they are in Merit. Dangerous are too great Benefits of Subjects to their Princes, when it makes*

the

the Mind only capable of Merit, nothing of Duty: Men that can only thrive by the Wars, misliking those days of Sloth, and the rather, because the Justice of Quiet Times urge from them to their lawful Owners what the fury of War unjustly gives them.

To suppress these Troubles, and *supply* the *King*, a *Parliament* was called, *who as little meant to relieve the King, as they did to acquit the State; their End being at that time only to open the King's Poverty at home, and to lessen his Reputation abroad, and to brave out their own Passions freely; whence it came to pass, that Parliaments, which were ever a Medicine to heal our Ruptures, were grown worse than the Malady; for at such times Princes are ever less than they should be, Subjects more:* And so they came at last to tell the *King* he had *wrong'd* the *State*, in the Election of his *Chancellor*, *Treasurer*, and other *Officers* of *State*; reserve the Choice of them to themselves; *bind* the *King* to such *hard bargains*, till there is nothing of *Sovereignty* left but the *bare Title*; draw the Managing of the *Royal State* to the Hands of the *Twenty four Tribunes of the People*; then resume it again to themselves, and settle it in a *Triumvirate*, till a speedy way was made for *one* of them at last to make himself a *Dictator Perpetuus*.

The King's *low Ebb* brings him and the *Sovereign Power* a Prey to Ambitious Designs; they desire nothing more than to see the *King*'s *Extremities* to *constrain* a *Parliament*, where [upon Promise to remove his *Strangers*, and rely upon his *Natives*, admitting some Persons to his Councils elected by the *Commons*] *they spare him such a pittance as must tie him to their devotion for a new Supply*, till at last they left him but a *Cypher*, till he had left neither Election of Publick Office or private Attendant; his half-Brethren and their Followers he must despoil of all their Fortunes, Exile them by Prescription, by Writs under his own Hand, *pro transportatione fratrum suorum*, nor to pass either their *Money*, *Arms* or *Ornaments*. *Such Insolent Spirits forc'd the King* (as *Trevet* says) *to seek the Advice and Love of Strangers, since no Desert could purchase it at home: But God, we see, holdeth the Hearts of Princes, and sendeth them such Councellors as the quality of the Subject meriteth: True Piety binds the Subject to desire a good Sovereign, but to bear with a bad one, and to take up the burden of Princes with a bended knee, rather, in time, so to deserve Abatement, than Resist Authority.* This looks as if that learned Antiquary were *affecting* that * *foolish Doctrine* of *Obedience*, or the *Bow-string Doctrine* of *Dog-kennel Obedience*. But these are the promiscuous Remarks of Sir *Robert Cotton*, in his *Life of Henry the Third*; and which was writ, not to Complement the *King* nor the *Court*, and by a *Member* of *Parliament* as much in the *Interest* of his *Country*, and who makes it his boasts, † *They had then no such undutiful Dispositions as to appoint the King a Council, as in this* Henry IIId*'s Reign; nor to remove his Councellors, as in* Henry IV*th's and* Henry VI*th's; nor to chuse them, as in* Edward III*d's and* Richard II*d's; nor to set them Rules, as in* Henry III*d's and* Henry VI*th's*. So that if that *learned Antiquary* is so *entirely* in the *Right* in his Assertions, [as some of his *learned* Admirers affirm, who justly rely much upon his Authority, as well as wisely borrow a little of his Labours,] here are a parcel of scurvy *Maxims* and *Observations* which I should be sorry should ever come to Applications: But when some partial Authors come to write for some particular Design, they seldom stay to look for any more in other Authors than what just serves for their own purpose; otherwise, by so plausible as well as applauded Writer, the Case of the Duke of *Buckingham* and King *Charles* I. standing by him even to the Dissolution of two *Parliaments*, could not have been so handsomly reflected on, if the *Assertions* of that *learned Antiquary* are so *entirely Right*, since it was the Loyal Advice of that very learned Antiquary, to that very *King*, Not to give up or desert even that very *Minister*: For says he, *To expiate the Passions of the People at such times with the sacrifice of any of His Majesty's Servants, I have ever found* [*as in* Edward I*.* Richard II. Hen. VI.] *no less fatal to the Master than the Minister in the end.* And, I think, King *Charles* I. * in that very Lord *Strafford*'s Case, both said so, to his cost, and found so, to his and all our sorrow.

* Vid. *Disc. of Grants*, p. 24. *Johns.'s Notes. To——d's Parties.*

† Vid. *His Speech to the Oxford Parl.*

Vid. *Discourse of Grants*, p. 356.

Vid. *Discourse* ditto.

Cott. Post. p. 320.

* Vid. *his Book, Meditation* 2. I call it *his Book*; for his very Enemies publish'd *his Letters* for *his*. And his Letter to the Queen, 14th *Jan.* 1644, has almost the words of his *Meditat.* 2. on the same Subject of my Lord *Strafford*. So that to Prince *Rupert*, 3d of *August*, 1645 with. *Medit.* 9. on the *Events of War*. So that to his Son *Charles*, 29th *Novemb.* 164-, with *Medit.* 27. to the *same Prince*: The Comparing of which will soon silence the Cavil, if we had not the Attestation of Sir *Philip Warwick*, who says, he had heard the King say many of those things it contains.

I have endeavoured, by laying an Equal *Weight* in both *Scales*, to make as near as I could an *Even Balance* in Our *Constitution*, which the Strains and Stretches of *Argument* and *Power* have oft Overpois'd, sometimes on one side, sometimes on the other; and as Matters now stand, the Parties seem to have chang'd their Stations, and they that violently pull'd down the Weights in

in one Scale, now as ſtrongly pull at the contrary; and ſo conſequently, as ſoon as this Seſſion is roſe, we may expect even thoſe who have written ſuch *Panegyricks* heretofore upon the *Rights* and *Powers* of an *Houſe of Commons*, to make them now the common Subject of their *Satyrs*. The Audacious, Threatning *Letters*, which have been ſent ſome of the moſt Eminent *Members* of that *Houſe*; the *Bold Scheme* of *Regulating* their *Proceedings*; of *Calling their Perſons to Account*; of *Diſcarding* and *Aſſaulting them* by the *Mobb*, and *Raiſing upon them the Rabble* of *Kent*, and a *Legion* of *Cade's* and *Tyler's*: And theſe *Libels* of our *Levellers* ſent to the *Speaker* himſelf; a Boldneſs beyond *Ayloffe's*, when he lodg'd in the Chair the *Wooden Shooe*; with innumerable Reflections and Affronts that only end in the viliſying of Our *Conſtitution*, which already appear in Print, is ſufficient to tell them they may expect more; but it muſt be granted them, whatever Invaſions they may ſeem to have made on the *Prerogative*; they fall ſhort of ſome that have gone before them with Applauſe, whoſe Quarrel ſeems more with the *Miniſtry* than His *Majeſty*; and their *King*, to their Comfort, [as He ſeems better ſatisſy'd, whom it moſt concerns] has treated them with a little better ſort of Entertainment. And therefore, on the other ſide, I would adviſe theſe Changling Hot-ſpurs, that are ſo warmly now come over too *on the other ſide*, to be a little cooler in their Career, leſt, though their Name be *Legion*, they may not carry all before 'em. We are not ſo ſoon reſolv'd into the downright Government of the *Mobb*, to which they needs will *preſcribe* and bring it: And the *Deſertion* of this Senate, or their *Denying Supplies*, may be of more dangerous Conſequence than when the Government was left at large by their late King. Had a *Houſe of Commons* been ſo handled when their *Wi. Will.* ſpew'd out what Members he and they pleas'd, they then had deſir'd, [and indeed ſo they did] to have *Guards*, for their ſafe Sitting. *S. J.* has told us, They may juſtly do it; and, That *when a* King *deſires any Guards, the* People *ought to do ſo too.* I don't remember they were told then, *what Members* they ſhould *Impriſon*, or *whom* they ſhould *ſpew out*, nor *what other Subjects* they ſhould *Commit* to *Cuſtody*; and the Proceedings of ſome late Seſſions [altogether more Exorbitant] have by theſe very Declaimers been as warmly vindicated. To *ſtrein* at *Impeachments for Miſdemeanors*, after they have *ſwallow'd Attaindures* for *High Treaſon*, is as ſurpriſing as to ſee the *Gnat ſtick*, when the *Camel is gone*. It ſhows, that no Parliaments will pleaſe ſome People, but ſuch as will act juſt as it pleaſes them; it may be Childrens Folly, but what Half-witted Men will hardly do, *to cry for their Cake after they have eat it*; or, *if they eat their own Dung, or drink their own Piſs*; though their King were an *Hezekiah* too, inſtead of a *Stadtholder* or a *Junius* [as they make him,] he cannot, and, by their own *Maxims*, he muſt not help them; for thoſe that *Reſiſt* that *Fountain of Power* which is in the *Heart-blood* of the *People*, to be ſure now muſt receive to themſelves *Damnation*: And I dare aſſert, whatever *S. J.* thinks, and his Adherents, Never was an *Houſe of Commons* more the *Peoples Voice*; but I won't ſay, with them, it is *God's Voice* too: But by *Humane* Experience they may find, That as there were not above an *Hundred New Members* in *this* Parliament, they may not have *Fifty* in the *next*: It is not to be Choſen only in *Kent*, and muſt Sit at *Weſtminſter*, though *Jack Cade* and *his Commons* came and ſate at *London-ſtone*.

Notes, p.

To——d.

S. J.'s Arg.

But I wou'd wiſely adviſe theſe weak *Conjurers*, though they make a *Legion*, not to *raiſe* their *fellow-Devils* too, for fear leſt they want Strength to *lay* the *Devils* that they *raiſe*. It will be time to ſhut up their Shops then in the City, inſtead of *poſting* to *Weſtminſter* and *poſting up* of *Impeachers*, who once came there to *poſt up* the *Straffordians*, who, againſt their Conſcience, and even in the Caſe of Blood, could not Paſs their *Impeachments*; though now they are come to hang up their Effigies in their Rooms of State, whom they poſted on every Piſſing-poſt before; and to Treat a New-ſet of *Five Members*, who were ſo bold to Impeach an *Houſe of Commons*, for *Impeaching* of the *Lords*.

We ſee now to what paſs and Paradoxes, by the Principles of S. *J.* and others, we are come to: People would not be themſelves, and that is next kin to being beſide themſelves. I confeſs, it was the hard fate of an unhappy Lord in the late Reigns, who, upon the Execution of my Lord *Stafford*, inſiſted much, *That the King had no Power to Remit any parts of the Sentence*; which yet he had occaſion to Confeſs and Implore, before he came to die. Theſe Caſes and Turns, one would think, ſhould make our Commonwealths Men, or Mr. *To——d*, or Mr. *Johnſ.* very wary what *Maxims* and Poſitions they lay down for *Conſtitution* and *Fundamentals*: For, in ſhort,

If the Nation labours under Difficulties and Confuſions; If both King and People are under Preſſures and Diſtreſs; If the Conſtitution both of Church and State be precarious and contemptible; And the

Balance

Balance of all things broken; I averr it only owing to these *Treacherous* and *Traiterous Maxim-makers* and *Prescribers* to a *Commonwealth-Monarchy*, and to a *Travelling Amsterdam Religion*, which have so long appear'd in publick, not only with as much Impudence as Impunity, but with Countenance and Preferment.

CHAP. II.

The People not the Fountain of Power.

THIS Celebrated Author, in a Book maliciously composed to abuse a Bishop of his own Order and Complexion, [tho' he could not come up to the Rant of his Opinion, to lay us open to a Multitude, and the *Strivings* of the *People*, but in which Book the *King* and his *Government* is as much vilified and traduc'd, unless a *travelling Religion* and *down-stair Deliverance* be Encomium's of State] tells us, he has but *two Maxims*, of which he charges the Bishop with the *stealing* of *one*. That Priests may *steal* more than *Maxims* from one another is *granted*, but that he has but *those Two Maxims only* I deny; for as those never were any of his, neither in *Theory* nor in *Practice*, (for 'tis enough to make a Man *mad*, or think *him* so, when he pretends himself the Author of an *Indefeasible Allegiance*, and of *Honesty*'s being the *best Policy*,) so I will tell him of *two* other *Maxims* that are entirely *his*, in which this Pulpit-Politician has laid us a *Foundation* for more *Slavery* and *Confusion* than ever we were deliver'd *from*, and what, without such *Positions*, we can never fall into: And they are these: *Notes on Phæ. Edit. p. 105, 109.*

1st, *By making our Two Houses to be bound by no Rules nor Laws.*

2dly, *By binding of our Kings to Pass all such Bills into Laws as they shall present.*

The Substance of these Positions may be seen in his several Works, which more deserve the flames than some that his Wit and Malice so labour'd to send thither: They strike deep at the Root of our dearest *Liberty*, and undermine the Foundation even of our Limited Monarchy. For this,

First, He makes the *Enacting Part* to be jointly in the *Two Houses*, and *equally* with the *King*, and has the singular confidence to vouch for it *every* Act of Parliament; which is only a false Assertion, seconded with a falser Proof; for all and every Act of Parliament, by his own Notion, is no Act of Parliament, no more than *all Lawyers* are *no Lawyers*, since he *names* none: And yet all these Acts, or at least most part of them, of all former Reigns, and even this, literally prove in their very Preambles, That the *Being Enacted* is by the *King's most Excellent Majesty*; and that the *Consenting* and *Advising* is all that the *Lords Spiritual* and *Temporal* are concern'd in. And this I *say*, even from what every Act *says*, as shall be shown, is sufficient to prove, That the *Royal Sanction* of every *Act* is in the Breast of the *King*; That his *Le Roy Vult* and *Le Roy Aviser a* determine this Point, by which he can Pass or Refuse their Bills, according to his Royal Pleasure: And for that Reason we shall anon show, how Mr. *Johns.* and his * Adherents would *maliciously*, *factiously*, if not *treasonably*, take away from the King his *Negative*, his *Sovereignty*, his *Crown* and *Dignity*, and for all this think to deserve his *Salary*: For if so, they may not only *Dethrone*, and *Elect* and *Promote* Kings and Princes, but as entirely change the Monarchical Government into Democratical; and certainly that is altogether against our *English Constitution*, and so cannot be *prescribed by it*; whatever this *Sam. Johns.* or *Tom. Hunt*, his *Gamaliel*, may *prescribe*, who downright tells us in his *Postscript*, That not only our *Hereditary* Succession, and the *whole Line*, but the *Monarchy* it self, may be laid aside by this *Unlimited Power* of the *Legislative*; for where a People, even from *Original Contract*, have submitted to own a *Constitution* for so many Ages, I affirm, 'tis not alterable by the *same* People, for then they are no longer the *same*: And *S. Johns.* says, *If they barr their Rights, they are barr'd, though it be in matters of less concern than our* Monarchy *and* Constitution. *See Arg. p. 3, 4, 5.* *Notes, p. 110.* * The King's *Negative* hinders the Ends of Government, and so must be taken away. *Plato Redivivus.* *Hunt's Postscript, p. 50.* *Johns. Arg. p. 47.*

By the *Peoples* being the Absolute *Fountain* of *Power*, they may not only oppose the *Powers* that *are on Earth*, but the *Higher Powers* of *Heaven* too, and break through *Divine Laws*, as well as those of our *Humane Constitution*; which some may still think is *ordained* of *God*, or else the *Revolution* was none of his Work: And though ten thousand Lawyers and *Fortescue's* should tell us so, as well *Hunt's Postscript, p. 74.*

Arg. p. 48. as well as ten thousand *Johnsons* and Levitical Priests, I affirm it, with as good Authority, a false and *de facto* Argument; as well as Experience has convinced us of the falshood of that other Assertion, and what was but just now prov'd false, *That an Arbitrary Power to oppress the Subjects, could not proceed from the People themselves.* For tho' the Body of the People, taken *collectively*, cannot be suppos'd to do it, no more than a Man in his Senses to destroy himself; yet its *Representative* and a *selected Power* not only *can do* it, but *has done* it, and that's enough: And so we fall again, in spight of *ten thousand thousand Fortescue's* and *Johnson's*, *ten thousand thousand fathom deep, and know no end of falling.* And for his *Curtana Sword*, it's that which was carried before *Bradshaw*; his *Lawyers* deserve the fate of *Cook*, and *himself* that of *Hugh Peters*; and so I tell him in his own language, *his Lawyers* are *no Lawyers*, and his *Divines* are *none* neither; and so from *Nichil comes nichil*, and I affront *no body.*

Their Mirror Universis.

If, as our Divine *Samuel*, the Vassal of Parliaments, but the Heroick Prophet too, who has *hewed our Agag's and Kings to pieces*, with whose Divinity and Politicks I can't so soon part, now they fall so pat in my way, though all the while the so valued *Maxims* of this *Dragoon-Priest* and *Booted-Apostle* contain no other Divinity and Law than what was long since to be seen in *the Soldiers Catechism*, * *compos'd for the Parliaments Army*: If, as he tells us, † *Protestant Tyranny* is worse than *Popish Tyranny*; I may also crave leave to tell him, The *Tyranny* of our *Protestant fellow-Subjects* must be more intolerable than that of any *Popish Prince.* If it be worse in a *Protestant Prince*, *'tis worse in a Protestant Parliament.* I don't know why my Maxims are not of as good Authority as his Maxims, and wou'd perhaps be of better, were their Author better known; and though I don't *set my Name* to it, I will give him a Conference at any time without a Vizard-Masque, and do more for the sake of King *William* and our *English Constitution* than he has yet done: For though he only *laid* the *Bridge* for the *King to go back on it* by the same way that he came, Old *English-men* will stand upon that Bridge that our Ancestors laid us of our *English* Monarchy, and defend it too, like so many *Cocles's*, by Dint of Sword, as well as Argument, against an hundred of such Democratical *Heads* or *Bodies*, though they were all *Hydra's*, and that without being all *Hercules's*; for the weakness of their Arguments have been so often laid open, and their Courage, when it comes to the test, as often failing: For as *Talk* is but *Talk*, so *Fact* is but *Fact*, and by that they have been as much baffled, whatever cause they have now to *triumph*, that a Victory in such a Quarrel is of no fame. Let such Priests fight it out among themselves; I know nothing that the *English* Laity have to do, but to look to their *Monarchy*, and in that their Liberty; so truly applicable is that Latin Aphorism of the Poet,

* Imprimat. *J. Cranford*, 1644.

† *Phæn. Edit.* p. 44.

See *Arg.* p. 52.

Nunquam Libertas gratior ulla, quam sub Rege pio.

Notes, p. 62, 93. Mr. *Hunt*, this Arch-Priest's, this Metropolitan's *Coadjutor*, (as he calls him) has lodged an *Unlimitted Legislative* in the *Two Houses*; Mr. *N——ll* has abrogated clearly the *King's Negative*; and now comes *Samuel* with this *Mephibosheth and Ziba*, to *divide* our *Land*, and he takes from the *King* the *Power* of *Calling* and *Dissolving Parliaments*, and tells us for one of his standing Maxims, That it is *prescribed* us by our *English Constitution*, to *Depose* and *Dethrone* our Princes at pleasure: And he that has done all this, deserves to be transported into another Government, for he quite alters ours, and so must not be *protected* by what he would *destroy.* That our *Kings* have *ever Call'd* and *Dissolv'd Parliaments* as they are *now Call'd*, or by whatever *Name* or *Title dignify'd* or *distinguish'd* heretofore, be they *Wittenagemotes* or *Folkmotes*, Meetings of *Great* and *Wise* Men, or of the *Common People* or *Folk*, for differ they do in the old *Saxon* Name, which even the modern *German*, to which they relate, does evidence even at this time of day; and differ they did, without all doubt, *then* in their *Constitutions*, and 'tis to the first Sir *H. Spel.* applies somewhat of the Name and Nature of a *Parliament*, and, which best agrees with the words of the Writs by which they are now *Call'd*, To Consult *de Arduis*, and to *make Laws*; and this was *Call'd* (*ad Arbitrium Principis Indictum*) at the *King's Pleasure.* And this, after all his troublesome Disquisition, (to leave it as he finds it) *S. F.* himself is forc'd to admit, after three or four leaves spent to let us know, with the help of the *Glossary*, and some old *Lexicon*, he had learn'd to read a little *old Dutch*, which I would have read him without, but he may at any time blunder with less pains in *English*: And if *Samuel*, from his supercilious Authority that he still assumes to himself, will call the *Privy-Council* the *Cabinet-Council*, and the *Cabinet-Council* the *Privy-Council*, and make both the same, from their Consulting commonly on and about the same Matters, we can no more help his *Understanding* than we can rectifie his *Will*,

Kalends, p. 31.

Pag. 38.

Will, or mend his *Judgment* any more than we can his *two Eyes*, all which, the Lord knows, have been all along in the dark, and (as he ſays) are not *valu'd* by him; and I ſay, by no body elſe. *Arg.* p. 37.

After all, we have but Mr. *Johnſ.*'s *Suppoſals*, for Authority: And why may we not *ſuppoſe*, and that with as good Authority, that himſelf is *mad?* and then, his *not to be ſuppoſed*, or his **Suppoſals**, *won't be worth one farthing.* To be *angry* and *mad*, in our Idiom, is as much the *ſame*, as the Two *Motes* whom yet in one and the ſame Book he makes to *differ* and *agree*: For if one was a *Conſtitution* that ſate *twice* a Year out of courſe, and the other only Call'd and Conven'd on Extraordinary Difficulties and Occaſions; the one perhaps *Convening themſelves*; the other, as he grants, only *Call'd* by *Kings*: the *one* having a *Power* to *Raiſe Money*, the *other not*; the *one* to *make Laws*, and the *other not*; they ſeem different things, and the one ſomewhat like a *Parliament*, and the *other not*. But we would not differ with him for ſmall matters, did *not* this inconſiſtent Piece of *Self-conceit* differ ſo much from *himſelf*, as in one Book to tell us, That *of old it appears the Kings of* England *had a Power to Summon Parliaments* **when** *and* **where** *they pleas'd*; That it is the *Undoubted Prerogative* lodg'd in our *Kings*; and all this in a Book purpoſely written to *take it away*: and to prove, according to his Aſſertion in another, and alſo in the very ſame Book, That the *ſecond Abuſion*, next to the *firſt* and *Sovereign Abuſion* of the *Law*, is for *Parliaments* to be *a volunt du Roy*. For if he *will allow* they had a *Prerogative* of *Calling Parliaments at pleaſure*, [as we ſee he is pleas'd to grant,] he ſhall allow, That they had a Prerogative of *not* Calling them before any Statutes made them *Stationary*, [which yet he does deny.] For to ſay a Man has a *Power* to do a thing *at pleaſure*, and *when he will*, when he muſt do it whether he *pleaſe* or *will* or *no*, is not ſo agreeable to the ſenſe of the *Wites*, to Common Folks, or Common Senſe; he might as well tell me, he went to *Tyburn* at his *will* and *pleaſure*, and that when he was *dragg'd* at the *Cart's-Arſe*: Or, that K. *W. Calls* his *Parliaments* now at his *will* and *pleaſure*, when he has helpt to top upon him another *Triennial-Act* beſides that of *Edward* II. and the *Annual* one of *Edward the Confeſſor*, the *Kalends of May*, and the *Biennial* of King *Alfred*. But for theſe *Secret Services*, or *Services* to the *Publick*, the Court ſtands Oblig'd to him in a larger Penſion. Be it as it will, I will averr, That the Denying a *King* of *England*, and King of one of the beſt-temper'd Monarchies in the World, his Juſt *Rights* and *Prerogatives*, is a *Diſſervice* to the *Publick*, and the Authors of it ought to be *Voted* and treated as *Enemies* to the *King* and *Kingdom*, *both* which *are* in their *Intereſts*, (as I have undertaken to ſhow) and *ought* to be the *ſame*; and the *Original Contract*, where-ever extant, being (as old as it was) a Common Stipulation of Two Parties, we have in our Annals experimentally found, that it has been violated by the *People*, more than by *Kings*.

Kalend. p. 34. *Ibid.* p. 32, 33, 37. *Kalend.* p. 13, 38. *Arg.* p. 50. *Kalend.* p. 11. *Kalend.* p. 38.

And this brings us to examine what Metal that other Weapon is made of, wherewith this *Samuel* hews our *Agag's*, and that is with a downright Blow of *Depoſing* and *Dethroning* them at the *Peoples will and pleaſure*. 'Tis to no purpoſe to tell this *Proteſtant Prieſt* that this is all *Popery*: And to keep out *Popery* by *Popery* is the Devil. Theſe are their *Relicks* he ſays he *loves*. He has an Anſwer for this, in his *Notes*, *'Tis but a ſham-ſending them to the Forges of the Philiſtines.* Ent I've ſhown the Annotator the Charge is no *Forgery*, and *Johnſ.* and the *Jeſuit* agree as well as *Popery* and *Paganiſm*. The *Papiſt* and *he* are agreed, I perceive, when they come to this Point, and he vouches their Practice for Precedents. But if theſe be his *Ways* and *Means* to keep out *Popery*, 'tis beſt compar'd to a late *King's bringing it in* by a *Proteſtant Army*, and this *Prieſt* would *keep it out* by the Principles of the *Jeſuit*: And ſo there ſeems to be more Danger, upon the whole, from the *Proteſtant Prieſt* than from the *Popiſh King*.

Arg. p. 47. *Notes*, p. 4, & p. 62.

That this his Doctrine is according to our *Engliſh Conſtitution*, and *preſcribed* by it, is *de facto* Falſe, as well as he would make it only *de facto* True. For as indeed we can plead *Preſcription* and *Fact* for the *Depoſition* of our *Kings*, ſo I will venture my Neck to his, which he has forfeited to our *Conſtitution*, [that is, our *true Monarchy*,] That for every Turn (down from King *Alfred* our *firſt*, (as he calls him) though in the ſame Line he may ſee ſeveral before him) that he can *preſcribe* to an *Abrogation* and *Dethroning* of a *King*, I will ſhow him a *Preſcription* and Precedent, that the ſame *Dethroning* and *Abrogating*, by the ſame *Power* or *Parliamentary Conſtitution*, has been made *High Treaſon*, and the Adherents and Abettors of it *hang'd* (according to this Argumentator) for *adhering* to our *Conſtitution*; and that *Rode caper* ſhou'd it come to his chance, would make *another Preſcription*. To uſe an Argument for our *Conſtitution* from *Fact*, is to found it in *Felonies* or *Murthers*, as well as *Treaſons* and *Depoſitions*, which commonly meet with the ſame *fate*: And therefore, for the very avoiding this Blemiſh he has laid upon

Vid. *Kalend.* *Egbert* the firſt *Monarch* after the *Heptarchy*.

our *Conſtitution*, did the *Convention* or *Parliament* (let him call it *Witenagemote*, *Folkmote*, or any *gemote* as he pleaſes) *Reſolve*, That K. *James* had *Abdicated* the Government; and by his *Deſertion* had left the *Throne Vacant*. And 'tis a queſtion yet to this day undecided, Whether, 28 *Jan.* 169$\frac{8}{9}$. if he had not *withdrawn* himſelf, as they *Voted* and *Reſolved*, [for *Deſerting* is *Anglicè*, *withdrawing*, and ſo it appears by his *Arguments*, p. 19.] by which ſome thought he *Depos'd* himſelf, whether they *could* or *would* have done it for *him?* And if this were the Grounds upon which they Declared the *Throne Vacant*, (as from their words it was) Are not a great part of our *Conſtitution*, the *Lords* and *Commons*, *vilely*, *impudently* dealt withal, to have a Book Dedicated to them, to ſhew the *Falſe* and *Treacherous Hypotheſes* of that *Deſertion* they had *Voted* and *Reſolved*, and upon *Arg.* p. 47, 48. which foot ſtill our *Conſtitution* (even from his own Principle) muſt *ſtand*, ſince the *Reſolves* and *Votes* of the *People*.

But this *Drawcanſir* of a Stateſman and Divine, that fights all *Principalities* and *Powers*, all Politicks and Divinity, all Notions and Hypotheſes, ſaving his *own*, and which is not ſafe, you ſee neither, from his own Inſults; for with himſelf he falls out too; with the *Bridge* that he laid for our *down-ſtair Deliverance*; with his *Indefeaſible Allegiance* to a *Travelling Religion*; with King *William*, for whom he has done all theſe Wonders, and with which *King* and *Allegiance* he *Notes*, p. 109. will not part, becauſe he has *Sworn*. But if this Book be the fruits of his *Swearing*, I will *ſwear* the *Non-ſwearers* are King *William*'s better Subjects: For in it, beſides the ſcurrilous Reflections that not only he has made upon much his Superiors, but His *Majeſty* himſelf, with an Audaciouſneſs as unagreeable to a *Divine* as becoming a *Mad-man*, he has acted truly conſonant to himſelf and Principle, by not only *preſcribing* it as a part of our *Conſtitution*, but by proving, in his *Notes*, the main point of his *Argument*, That King *William* not only *may*, but *muſt be Depos'd*; and for which certainly this audacious Scribe rather deſerves again the *Kings-Bench* than the *King*'s *Salary*. And this ſhall be proved from his very Works, and own words: For by the Army His Majeſty ſtill now retains, and that though they were not half the number, and hardly *Notes*, p. 71, 82, 83. enough for *Guards*, they are, by his Poſitions, the *Deſtroyers* of the *Government*, and accordingly muſt be *deſtroy'd* themſelves: And then 'tis *preſcrib'd* us by our *Conſtitution*, he tells us, upon any *Arg.* p. 47. Miſgovernment, to *dethrone* our *Prince*, as well as to *deſtroy* his *Army*. So that be his Allegiance as *Indefeaſible* as he would or could poſſibly make it, he infallibly *defeats* King *William* and all his *Army*, in theſe his very words:

Notes, p. 82. *Any Standing Army plainly deſtroys this Government*; —— *for there are no Quarters, neither is there room in* England *for any Army. If they be Quarter'd in Houſes, it is a Forcible Entry, and a Diſſeiſin of a Man's Freehold. If they Encamp at* Hounſlow-Heath, *it is a Rout-Riot, and Unlawful Aſſembly. A fourth part of our Petition of Right is ſpent againſt the Billeting of Soldiers. There was indeed a Confederacy, in the late Tyranny, betwixt the Court and the Juſtices of Peace, to put this Difficulty upon Publick-Houſis, and either to receive Soldiers or loſe their Licences, (though Licences ought not to be taken away unleſs for a Forfeiture, which Refuſing of Soldiers is not, but a Right;) but ſuch Frauds, and ſuch Abuſions of the Law, never wrought any thing elſe but Abdication.* They are indeed *bloody words* at this time of day, and time of *Peace*, and might bring us to *Bloody-Noſes*, and ſo no more.

If His Majeſty has had any hard-meaſure in having his *Dutch Guards* ſent back from whence they came, our truſty and well-beloved Court-Penſioner has done ſo much Service for his *Salary*, *Notes*, See Dedicat. & p. 83. as to recommend their Tranſportation to the *Barons* and *Commons* of *England*; and by an Illuſtrious Precedent of *Knute* the *Dane*, *than whom there never look'd any thing more like a Conqueror*, For which ſee *Bract.* who [as he diſcovers from the *Engleſcheria* of *Bracton*, and calls it *the fineſt Point in our Engliſh Conſtitution*] at the **deſire of our Engliſh Barons**, *ſent his Army back* to *Denmark*. But leſt all this ſhould not *do the buſineſs* of the *Army*, he tells us further, out of *pure Indefeaſible Allegiance*, a Citation out of *Ariſtotle*, (who yet was a better Friend to Monarchy than this *Indefeaſible Demo-* *Notes*, p. 71. *cratick* is to King *William*,) *That it is the mark of a King's turning Tyrant*, if he *deſires* ſo much as a *Guard*: And ſays further, *That if a* King *demand a Guard to defend himſelf, his* People *ought to demand a Guard to defend themſelves againſt him.* But I think he can't be better Anſwer'd than in his own words that go juſt before, —— *Guards ſhall be an Army, and an Army ſhall be Guards*; as ſuch *Mad-men* think fit. Theſe are *bloody words* again, and ſuch as all the *Arguments* or *Hiſtories* againſt *Standing Armies* have not yet ventur'd on: But *Mad-men* have *one Law* on their *ſide*, to put them above *all* that are *againſt* them.

But all this Doctrine, there are *Lawyers* and *Laws* will tell him, is, inſtead of *Preſcription*, downright *Treaſon* to our *Conſtitution*: And becauſe Anonymous Lawyers are no *Lawyers* with him,

'tis

'tis not a Judge *Jenkins*'s *Lex Terræ*, but *Common-Law*, *Common-Usage*, and my Lord *Coke*'s *Institutes* will tell him so. That *Attacking* the *King*'s *Guards*, is *Attacking* the King's *Person*. I thought had been no News to be told us at this *time a-day*, after so many *Examples* and *Executions*, and so many Hang'd in all the late Plots only for intending it. And 'tis as plain here, that his *Words* and *Works* have done King *W*—'s *Work* as well as any other *King*'s; he has separated *Him* and his *Guards* as much as any *Cart* could have done that had been *overturn'd* between *them*, either at the *Rye-House*, or the Narrow Lane at *Richmond*. And therefore I must tell him again, our *Constitution* does no more prescribe to the *Dethroning* of our Princes, than to the *Murthering* of them. There has been *Fact* for both, and *Hanging* for both, and *Fact* is but *Fact*, and *Hanging* (I hope with him) may be but *Hanging* too. If it is Antiquity, if History, if *Proceedings Parliamentary* that must *prescribe* to us *Villany*, we have had Princes *Dethron'd* and *Murther'd*, down from the *Brittish* and *Saxon* Line, to the *Scottish* Race; he may *prescribe* to us from *Uter Pendragron* that was *Poison'd*, to King *Charles* that was *Beheaded*; but it is such *prescription* to the State, as those Empericks take that eat the Toads, *the Remedy that is worse than the Disease*, of which the Nation was always *Sick* 'till it had *spew'd* it up, and as the best Antidote, *hang'd* the Doctors that *prescrib'd it*. *The Funerals of their Honours have been always follow'd with the Ceremonies of the Grave, and the distance between that and their Prisons is but a little stride.* They are *two* of the *same* King *Charles*'s *Maxims*, attested in his Death, and seal'd in his Blood, and worth an *hundred Maxims* of this Priest of *Baal* or *Bacchus*, whose Ranting Rhapsodies seem to be Penn'd with the Rage of those that cut themselves with *Sacrificing Knives*; whose Two-Edg'd *Tongue* has so much of the *sharp Razor* too, that like what some nearer Friends of that Unfortunate tho' *Learned* and *Great* Earl, (whose ill-apply'd *Arguments* he makes use of for *Deposing Kings*) have with more Candour to Truth *fear'd* and *imagin'd*, it does *Cut his own Throat*, that melancholy Subject is besides that of *this* Discourse, tho' he brings it in by head and shoulders into *his*. But upon which Invidious Reflections, as well as false and groundless, I must tell him by the way, that nothing *stifles* that Great Man's *Honour* and *Integrity* more, and *murders* him in his Grave, whatever he was before he came thither, than the fastning upon his Memory, the more barbarous Principle of *Deposing* and *Murthering Kings*. A Doctrine which his *Greater Parent* so much *abhorr'd*, whose Blood fill'd *his* Veins, that he lost every drop of it for the opposing it, and *stick he did* as well as Sir *Thom. Moor*, and *lay down* his Life for it; Not for the *deposing Doctrine*, but the *Supremacy* or *Sovereignty* of his King. This Principle he wou'd fasten on this Unhappy Peer after his *Death*, proves the Plot he was engag'd in while he *Liv'd*, which some had the Charity, others the Malice to disbelieve; and for the Honour I have for some of that Loyal Family, I could almost still doubt his Guilt. There are Misgovernments enough laid and prov'd I hope in the Charge of *these* late Reigns. *His Tangier Nursery*, *his Tower Battery*, *his Citadel of Chelsea*, without blemishing it with this unaccountable Barbarity; as if both Princes to conceal so *bloody* a *business*; [one of which seem'd Sagacious enough] could conspire in it as the best expedient, to be walking in the Tower at the very time of the Tragedy, a Calumny as *Black* as it is *Dark*, and which the Malice of the Indefatigable or *Indefeasible Br—— on* could not bring to *Light*, when Countenanc'd with Authority, and the Committees of two Houses. But since he delights in the Calumny of Princes, I'll tell him such another Task: let him undertake to make out the Murther of another Earl in the Days of our good Queen *Elizabeth*, to whose Blessed Memory I hope he will have more regard than to that of our good King *Charles*. The Circumstances are so much the same that I cannot omitt the parallel; and if there was no ground for the *then* believing *that* a *Murther of State*, there is as little left for the believing of *this*; and if he can't detect this so lately transacted, I am sure he won't that so long ago.

Vid. *Instit.* Cap. *Treason.*

Notes, p. 62.

Notes, p. 75. 77.

Ibid.

Notes, p. 67. 70.

Henry Piercy then Earl of *Northumberland*, was clap'd up close in the same Tower, *only* for being *suspected* to be Concern'd in *Throgmorton*'s *Plot*, and who knows but it might be in the same Chamber. For Fate hangs over our heads like *Damocles* his Dagger, in perpendicular Lines. But about the 21*st* of *June*, 1584. about an Hundred Years before, as our Historians relate it, was found dead in his Bed, shot thro' the Body with three Bullets. The Coroner's Inquest upon Examining the Matter, found he had murthered himself. Three days after the Lords meeting in the *Star-Chamber*, *Bromley* the Lord Chancellor declared this Fact of the Earls in Court, and Commanded the Attorney General to show the Causes of his Imprisonment, and the manner *of his Death*. Whereupon *Popham* first, and then *Egerton* the Queens Sollicitor, in *long Orations* laid open all his Treasons, and how for fear of the Law he had laid violent hands upon himself.

Vid. Stow's *Annals*. 27 Eliz. Baker's *Chron.* 28 Eliz.

There wanted not then ſome Popiſh Bigotted *Br——ons*, and Jeſuited *Fo——n*'s in thoſe Days that did endeavour to faſten the Odium of it on the Court and the Queen; who for that Reaſon was forc'd to take the Courſe to make that publication of it in the *Star-Chamber*; and in a *Book* * Printed and Publiſh'd for *that* purpoſe, if *Book* can anſwer *Book*, here is Hiſtory and Annals, better Books for worſe, that would go a great way to make a parallel, to wound the Memory of that moſt Glorious Princeſs, ſhould ſuch Spiders be admitted to ſuck the Venom out of it, to ſpit it in the face of the Government, and the *Monarchy*. But the beſt of it is, theſe Matters ſtand ſtill upon Record as well as *Braddon*'s Conviction; and 'tis an Impudence only fit to adorn theſe Brows of Braſs, to be dabling in the *Blood* of that unhappy Peer, from which his *own Blood*, and Relations did deſire they would deſiſt. But I have done, tho' they have not, in which ſo much ſhou'd not have been done by me, had not this *treacherous* Scribe *broke Rule*, in *diſturbing* the *Aſhes* of the *Dead*, and from his *private Diſcourſe* Printed him a *Murtherer of Kings*, as well as [ſome think] of *himſelf*.

* *Tit'd A true ſummary Report and Declaration.*

Remorſe and Deſpair might well work on one whoſe Principles of *Deſtructive Divinity* were diſtill'd from † Doctor *Donne*. Tho' that good natur'd Prince whoſe Memory they would alſo aſperſe with the Murther, had the *goodneſs* to be ſo much concern'd for his *Death*, as to uſe this very Pathetick Expreſſion, *That my Lord of* E——*had no need to have been ſo much afraid of his Life, ſince he was indebted at Leaſt one Life to the Family, for the Suffering Loyalty, and the laying down that of his Fathers.* Who whatever his Son *did*, or Sir *Thom. Moor* did, 'tis certain *ſtick he did* to his Allegiance, and *lay down his Life* to the *Murthering* Principle of the *Peoples Power*, and the Uſurpation of an *High Court of Juſtice*, that had in the ſame year taken away the Kings; both which were done, the better to execute Royalty and Loyalty together; the one before the Palace Royal, the other in the Palace-Yard: And therefore I ſay, (to talk to theſe ſort of Prieſts out of the *Bible*, which now they put like the *Grace of God* on the late Coin of King *J——s*, *behind their Backs*) If *theſe things were done in the Green Tree, what ſhall be done in the Dry*? or *what Fruit will ye have of theſe things of which you ought to be aſhamed*? And we may add too, *for the end of theſe things is Death*, Ignominious *Death* commonly in *this World*, beſides (what they don't regard) the Eternal one that is there told us of in that which is to come. And not to tell you of Old Stories, the King's Judges not long after follow'd [and very deſervedly] the Fate of the King. Sir *Henry Vane* went, and after harmleſs Sir *Hen. Hide*, the Lord *Capell*, and ſeveral others of late, of no little Figure, as true to *John*——'s Principles, as he ſays poor *Aſhton* was to *Paſſive Obedience*; all went the ſame way, and therefore if it be *Hanging* he preſcribes to, if it ſuits with his *Conſtitution*, it does not with *mine*; however he ought to be ſo fair as not to *preſcribe* always to all one way, ſince down from King *Alfred*'s Days there has been ſo many *Changes Rung* in this *Hanging Iſland*. But if I might *adviſe*, I would *preſcribe* to him out of his own *Bible* he has ſo much baffled, to be *ſubject not only for fear, but for Conſcience ſake, to render to all their dues*, Hanging to whom Hanging, *Fear to whom Fear, and Honour to whom Honour*.

Charles II.

† Vid. *His* Βιοθάνατος, *or Book defending Suicide, well Anſwer'd of late by a Learned and Ingenious Hand.*

D. of M. Lord R—— Col. S——

I do not only ſay, but I have ſhown how his Principles cut the very Throat of this preſent Government, of any Government in the World; that they Cut his own Throat, and make him a *Felo de ſe* to his own Writings. For he proves in his *Notes* that *Relapſe* he wou'd never ſuppoſe in his *Argument*, and has made the King not only a *Tyrant*, but an *Atheiſt*; and would from thence inferr that we want a *New Revolution*. And if his Salary be not Suſpended, himſelf Puniſh'd, or his Books burnt, there will be no end of writing againſt Kings, and *deſtroying* them, and their *Standing Armies*.

P. 70, 71, 82, 83. *Arg.* p. 21. *Notes*, p. 105.

Mr. *Joh——n* muſt either *own* his Writings, or *Recant* and *Retract* them: If he *owns* them, he *de facto* depoſes King *William*, tho' he were never ſo much *de Jure* King; or elſe his *Crooked Doctrine* too, muſt like his *Crooked Ninepence* look *two ways*. If he *Recant* them, then he has ſaid *Nothing*, and ſo again from *Nichil* comes *Nichil*, and no hurt is done. And now I hope he ſees how he Eſtabliſhes Thrones upon Mr. *Milton*'s Vacuum, *Where they muſt fall ten thouſand thouſand Fathom deep, and know no end of falling.* For in one and the ſame Page this Inconſiſtent Zealot falls out with himſelf, and makes *Neceſſity Superiour* to *all Law*; and at the ſame time and place, this ſame *Rule* to be the *Rule* of all *Miſrule* and *Miſchief*. And indeed his *Divinity* has no more *Goſpel* than his *Neceſſity* has Law; his *Neceſſity* made his *Divinity*, and his Name may be *Neceſſity* as well as the Lawyer they call'd ſo for having no *Law*. In ſhort, this Poor Man's raving Intellectuals ſeem as much in the *dark* as his poor Opticks; he can't ſee thro' a Page or Folio, to ſee what he ſaid in the foregoing; he ought to have been *kept Dark* (as

Notes, p. 24, 25.

Arg. p. 16. *Notes*, p. 45.

angry

angry as he was with the foreboding *Biſhop*) if he had not fallen ſo; for while he writes againſt Tyranny, he his ſetting it up; he transfers it only from the *King* to the *Commons*; from *Whitehall* to *Weſtminſter*, from a *Tyranny* he *had* once on his *Back*, to a *Tyranny* he *would* alway *have* on his *Side*: And if this won't ſuffice for his *Doctrine*, may he only come, when he *feels* it, to *Uſe* and *Application*. Pag. 94.

It is a pleaſant Jeſt, to *preſcribe* to our *Conſtitution* from the Opinion of Sir *Tho. Moore*, *That it is the undoubted and unqueſtion'd Law of the Land, that a Parliament can make and* Depoſe *a King*. What if an hundred *Moore's* and *Rich's* had reſolv'd it; Will that make it a *Law of the Land, undoubted* and *unqueſtion'd?* If *Moore's* Authority is with our *Prieſt* of ſuch weight to *ſubject* the *Prince* to his *People*, it muſt weigh ſtronger for his Subjection to the *Pope*, whom, he *allow'd*, could *Depoſe a King*; and for that his Supreme *Papal Power* he dy'd. *Moore's* Authority, in this Point, is as much a *Jeſt* as thoſe which he made when his Head was going off, for the ſaving of his Gown and Beard: And 'tis well known, [as falſely as this Fellow would inferr from it] that it was only the *Supremacy* in *Spirituals* that Sir *Thomas Moore ſtuck* at, till the *Axe* was *ſtuck* 'twixt his *Head* and his *Shoulders*; but at the *King's Sovereignty*, 'tis well known, he never *ſtuck*, nor at any thing that was in order to *advance* it: He might as well have inferr'd from the ſame Authority, That the *King's Power* did not extend then to *cut off his Beard, though it could cut off his Head*. 'Tis well known alſo he was taken from being *Speaker* of the *Parliament*, to carry on the *Extravagant Exceſſes* of the moſt *Arbitrary Court* that had domineer'd in *England* for many Ages; that he was the chief, that with ſome other Lords, when *Chancellor*, that carry'd the Matter of the *Queen's Divorce* (to gratifie the Power and Luſt of the moſt Wilful and Libidinous King that ever reign'd) firſt into the *Houſe of Commons*, from whence he came; and who, though he was ſo much a Bigot to Religion, 'tis certain, he was no leſs a Pimp and Tool for Tyranny too. And *Rich's* Reaſonings for the *Power* of *Parliaments*, at the ſame time he was the *Court's* Sollicitor for the making the *King* the moſt *Abſolute Head* of the *Church*, as he was before of the *State*, is to the meaneſt Capacity ſuch a *ſhallow* and *ſhamming* upon the *Parliament* which he carry'd in his *Codpiece*, and urg'd only to advance the *King's* Power, and not the *Peoples*, that this Paraſite muſt needs have ſeen it, if he had not loſt his Eyes before he wrote it, or been fit for a *Dark-houſe* before he made ſuch *blind* Diſcoveries. *Notes*, p. 74, 75. See Dr. *B.* Hiſt. *Reform.* *Notes*, p. 73.

It is undoubted *Fact*, viſible upon Records, legible in our Annals, That the Arbitrary, Abſolute and Extravagant Power and Proceedings of that Prince, againſt all perſons and People, of all Ranks and Quality, from the Q. Conſorts of his Bed and Board, to his Miſtreſſes and Minions; from his Cardinals and Councellors, to the pooreſt Prieſt and Vaſſal; from our Privileges and Civil Conſtitutions of the State, to the Sacred Rites and Revenues of the Church; ſhow'd him (I think) a King too that would be *Obey'd* without *Reſerve*, and whoſe *Unlimited* Prerogative had ſtretch'd it ſelf to that extravagant extent and latitude, to the *ſparing* neither *Woman in his Luſt*, nor *Man in his Anger*, that he carry'd the *Arbitrary Power* of ten *Edwards* or *Richard's* IId's in his *Royal Paunch* and *Prerogative Belly*. Had any Member of his Houſes of Parliament, much leſs any *Richard Rich*, his Creature and Soll[illegible]or, made uſe of the *Depoſing Power* of a *Parliament*, to the cramping of the *Regal Power* of that *Unbounded Prince*, he would have Demanded ſuch Members with more fury and heat than thoſe *five* were whom King *Charles* would have Impeach'd; and inſtead of making *Richard Rich* Head *of that Noble Family of Earls*, had certainly ſpoil'd both their Dignity and Poſterity, by taking off that *Head* from whence they came, and ſent him to argue it out with *Moore* on the Scaffold; and his *Parliament*, notwithſtanding *Rich's* Complemental Argument for their *Depoſing Power*, as infallibly ſacrific'd him to that *Prince's Frown* and *Fury*, and he had, with *Haxey* in *Richard* IId's Reign, been *ſoon* Attainted for *Treaſon* moved and intended againſt the *Prerogative*.

The *Reſtoration* and the *Revolution* indeed were two notable Things, as well as two noted Words; and both, what no Man could hope for, the *Volvenda Dies* brought about: But as the firſt piece of Providence affirm'd and confirm'd our *Conſtitution*, to which we truly *preſcribe*, **Our Ancient, Hereditary Monarchy of Old England, The Imperial Crown of the Realm**, (as our Acts of Parliament call it,) and not the *Peoples Crown*, as *Sam. Johnſ.* calls it; ſo neither, I hope, has the latter Turn of mighty Fate made ſuch a Metamorphoſis or Monſter yet of our *Government* and *Monarchy*, as to turn it into an *Hydra*, and, as theſe *Gorgons* or *Dæmons* of our *Plato's* would make her, the *Revelation Beaſt* with *many Heads*. But whatever the *Revolution* will allow, (for 'tis next to a Paradox to believe any ſort of *Crown'd Head* can be really much in love with ſuch an Inconſiſtent Subjection, that ſets the *People* above their *Heads* and *Crowns*, 1 *Jac.* 1. c. 1

even

even to ſeparate both from their *Shoulders:* which is certainly ſetting the *Pyramid* too upon the *Pinnacle*, which *Samuel* ſays, and may ſay, without being a Prophet, *can never ſtand*, and ſo we muſt *fall*, &c. without any *end of falling*;) but 'tis certain, when our Reſtauration *Reſtor'd* our Ancient Monarchy to *ſtand* upon its own *old Legs*, the *Fifth-Monarchy-men* and *Regicides* were *Hang'd* and *Quarter'd* for *practiſing* the *Principles* this *Prieſt* preaches. *Twine* the Printer went the ſame way, for putting them into a Book: And Mr. *Sid*——, without the Publication, though publiſh'd with ſuch Applauſe now, had the ill luck ſo to *fall*, for invading this our *true Regal Conſtitution* too: And if my Lord *H* is not Perjur'd, or (as Active and Popular as he is now, *Aaron Smith* would tell the truth) for *Practiſing* and *Conſpiracy*, as well as *Writing* and *Principle:* ſo it is not poor *Aſhton* alone (as *S. Johnſ.* ſays) that dy'd by being *Prieſt-ridden*, and theſe were his *Martyrs* too. So dangerous is it to endanger a *Conſtitution:* And I believe and am aſſur'd, that ſhould any thing in *Holland* be publiſh'd to make a Monarch of a Stadtholder *there*, it would forfeit the *Hand* and *Head* of the Writer; and therefore, *Ergo* and *Vice verſa* ſuffices *here*. And, to be plain with him, Though from the Fortuitous Hit of our *Revolution* they happen to be united in one Great Prince, ſtill the *King* of *Great Britain* is no more a *Stadtholder* here, than the *Stadtholder* there is *King* of *Great Britain*; we don't *preſcribe* to their *Conſtitution*, no more than they do to ours: And I don't in the leaſt doubt but His preſent Majeſty may be as *Vigorous an Aſſertor* of the *Monarchy* of *England*, as of the *Liberties* of *Europe:* Of both which we may ſay too, in the Poetical Aphoriſm of old *Claudian*, — *Nunquam Libertas gratior ulla.* —— And the ſame Generous *Prince*, that ſo Heroically refus'd to be made *Monarch* of *Holland*, (which, to his Glory, I have heard confirm'd from one that was a Witneſs of the Overture) becauſe againſt the *Conſtitution* of their *State*, will not eaſily, I fanſie, be brought to forego or recede from the Royal Hereditary Rights of the *Britiſh Monarchy*, to which *Regal Conſtitution* we do equally *preſcribe*. We don't, notwithſtanding what *Sam. Johnſ. may think*, or his *Plotleſs* Friend, my Lord *Sh*—— *might think*, whom all the world *will think* to have been in *many Plots*, if not in the *Oxford one*, (and whoſe *foul-play* it was indeed to leave his Aſſociates, and ſome of our *Samuel's Worthies*, and *worthy* Patrons, of whom the *World* was not *worthy*, in the *lurch*, and to be *fairly* hang'd for the *Plot* he had engag'd them in;) we don't, I ſay, notwithſtanding that late Lord's Election or Opinion, or this Prieſt's Whimſies or Conceits of a new *Pacta Conventa*, or old *Original Contract*, *preſcribe* to Any *Poliſh* Monarchy here, but the *true Britiſh* one of *Old England*.

See *The Execution of Juſtice is the Peoples*, &c.

Notes, p. 87.

Nothing ſeems to be more a *Jeſt*, than when thoſe Antimonarchical Authors would make Antiquity and our ancient Writers to be Vouchers for them, in their invading of the Juſt Prerogative, and the Ancient Rights of the Crown; when it is viſible and legible through the whole tract of our Annals and Hiſtory, that the further we run and revolve back, the more Abſolute and Deſpotick even from the *then Conſtitution* we find our Monarchs. Our *Pſeudo-Prophet* as well as *Prieſt* would be loth to *preſcribe* now to the Tyranny even of our old *Edward the Confeſſor*, who, by his old *Power* without *Reſerve*, diſpoſſeſs'd even his own Mother Queen *Emma* of all her Goods and Poſſeſſions, committed her to Cuſtody, and put her on the *Tryal Ordeal*, and that without the help of any Parliamentary Attainders, or Tryal *per Pares*, as *Henry* VIII. had for his Queens he Beheaded: neither do we read of any *Folkmotes* or *Witenagemotes* that *moted* or *met* upon theſe Extraordinary Proceedings of King *Edward*.

'Tis plain, both our *Britiſh* and *Saxon* Monarchs, and alſo the *Dane*, Rul'd *Deſpotically*; and the *Norman* Conqueror that came after them, exercis'd a Power to which I ſhould be loth our Princes now ſhould *preſcribe*, or that our *William* the *Third* ſhould take the *Firſt* for his Pattern: And therefore I would adviſe our Hot-ſpurs for a *Republick*, not to unravel too much of Antiquity, and to tell us what our Kings *were*; but had better take them upon content, and keep them to what they *are:* for to him that looks back, all behind will be but our two Bugbears, *Popery* and *Slavery*.

Britton, or *Breton*, who liv'd and wrote in *Edward* Iſt's Reign, about the Year 1300, and ſo near, and above 400 Years ſince, was a Biſhop and Divine, I take it, as well as a Lawyer, and compiled a Book of the Laws of *England* alſo, call'd *Le Breton*, whom, though ſuch Divines and ſuch Lawyers as our *Samuel* would have *warped* on the *Peoples* part, any impartial Peruſer may obſerve to have been as much a *Prerogative-man* as *Bracton* himſelf, we Prerogative-men, with or without his leave, may ſo well *quote*, and yet one whom Mr. *Johnſ.* and his Anti-Monarchical-men *quote* alſo; and both theſe eminent Men liv'd much about a time, the one in K. *Henry* IIId's Reign, the other in his Son and Succeſſor's, K. *Edward* I. in the ſame Century, and both about 400 Years ſince; the one the then Lord Chief Juſtice, the other Biſhop of *Hereford*, and both, with

Vid. *Arg.* P. 47.

with their Prince's Encouragement and Instigation, compiled their Books of our *English* Customs and Laws long before, and about 200 Years before the fam'd *Forteſcue*'s Piece was publiſh'd. Now this old Biſhop *Breton*, whom the Men of *Weſtminſter-Hall*, that are no ſuch *Prerogative-men*, can and do ſtill cite and *quote* for Authority, has a *ſcurvy* paſſage that won't go down with our *mongrel Monarch-maker*, or Baron *Wallop*'s *Tell-Clock Chaplain*; for he *tells* us, That it is the *King*'s *Will* and *Pleaſure*, That his *Judgment* and *Juriſdiction* be above **All** in the Realm. This ſhort little three letter'd word *All*, I am apt to think, is ſomewhat like a *King*'s *Arm*, which is proverbially ſaid to be very long reach'd, and will go near to reach *Johnſ.*'s moſt *tranſcendent Power* of the *Peoples Repreſentatives*; for that is what ſuch Men mean by *Parliament*, and ſo will take in *all* the Body of the People *collectively*, and quite marr all their State-Metaphyſicks and Political Diſtinctions of *major Singulis*, but *minor Univerſis*, the ſtale and muſty Productions of old Melancholy and Male-contented Men; and I may ſay more, of Dangerous and Rebellious *Democraticks*; for theſe Diſtinctions were firſt broach'd about 200 years ſince, when the Subjects firſt began to riſe up in Rebellion againſt their Magiſtrates, and to ſet up their own Anarchies, in oppoſition to thoſe Monarchical Governments from which they made their Defections and Revolts, publiſh'd in Books * printed by *Prieſts* and *Jeſuits*, and the *Relicks* of that *Popery*, this our *Pſeudo-Proteſtant Prieſt* profeſſes himſelf ſo much in *love* with, and whoſe Works of late have been pretty well improv'd from ſuch Mens Principles and Practices. But I can't yet part with ſome better *Relicks* of old Popery, which, with Mr. *Jo*——*n*'s leave, I may love as much: I think our old *Briton* tells us further, and that long before the 25th of *Edward* III. ſettl'd the Point, That even in *Edward* IIſt's time, it was taken to be Treaſon, the killing *any* of the King's *Children*, from an *Apparency* they had of any of them being under a poſſibility of becoming *Heirs Apparent*, and ſupply the Succeſſion of the Crown.

* Vid. *Junius Brutus Vindicia.* Vid. *Doleman*, *Allen*, *Inglefield*, *De Jure Magiſtratuum*, wrote by *Eicleny*; all Papiſts and Jeſuits. It is ſtill *Jeſuitiſm*, though he nor Mr. *Hunt* had never read their Works; *Notes*, pag. 62.

I like as little that Our *King*'s *Will* ſhould be above *all Law* as any Man in *England*; but make uſe of it only to ſhew our *Law-Levite* what fine work he is like to make of it, if a few words of every old Lawyer or Law-Book, a *Fleta*, or a *Forteſcue*, ſhall ſettle our Government, or *preſcribe* to our *Conſtitution*; for then a *Bracton* or a *Briton*, older than any of his Antiquarians, and of more Authority than any *Wallop* of his ever was or will be in *England*, have left us ugly, unlucky Maxims, that will quite ſpoil and marr all Mr. *Jo*—*n*'s *Two Maxims*, all his *Two Points* upon which which he puts all his Scribble. For if the *King*'s **Will** be above *all Juriſdiction*, as ſays old *Briton*; then ſay I, Farewell the poor *Peoples Fountain of Power*, as ſays *Forteſcue* and his Son *Samuel*. And again, If it were Treaſon, ſo long ſince, to deſtroy but a Collateral Heir of the Crown, as ſays the ſame old Lawyer and Biſhop, Adieu to the Doctrine of *Dethroning* and *Abrogating*, *preſcrib'd* by *Jo*—*n* the *Prieſt*. *Notes*, p. 109; *Arg.* p. 47.

But to bring *Bracton* and *Forteſcue* to be both of a mind, That the *Fountain* of all *Power* is in the *People*, may be a greater difficulty than ſome may imagine, as eaſily as *Samuel* ſeems to reconcile them, who Juggles with them much after the manner the *Hocus-Pocus* Fellow he himſelf tells us of, who from one Liquor would ſpew you up half a dozen, and give you Claret, White-wine, Sack or Sherry, Spaniſh or French, out of the ſame Cask of his Transforming Maw. For let *Prerogative-Men* quote *Bracton* never ſo much for *Prerogative Sayings*, Mr. *Johnſ.* can *warp* him into *Anti-Prerogative Sayings*, and make him *ſay* and *unſay* at his powerful *Will* and *Pleaſure*, or according to the *Intention* and *Heart-Blood* of the *People*, who are the *Fountain of Power*. *Arg.* p. 47, 48.

And that this was none of *Bracton*'s Opinion, [be it *Forteſcue*'s or *Jo*——*n*'s] his Words and Works will evince: and 'tis a very hard caſe a Man muſt be told his Mind four hundred and fifty years after he has wrote, better than himſelf knew it while he was a writing. It would *raiſe* the *ghoſt* of our *Samuel* alſo, and *diſquiet* him as much, ſhould any Writers of the next Age endeavour to prove Mr. *Jo*——*n* a *Prerogative-man*, when his Works, in which he glories, and the Principles and *Maxims* he makes his boaſt, demonſtrate him not only a good *Commonwealth's-man*, but the moſt peſtilent and dangerous *Democratick* that ever breath'd under a *Monarchical* Government; and by whoſe deſtructive Poſitions and Politicks no Species of Government can long ſubſiſt, but muſt be as precarious as the Caprice of the *People* from whom this *Fountain of Power* is deriv'd.

The Principles of this *Divining Prieſt*, (for *true Prophet* I hope he'll never be, as Ominous or Synonymous as this Inſignificant *Samuel* ſeems to be) are much the ſame with the old *Prophecy* of *Friar Bacon*, or part of the old *Oxford Oracle*, that told us once of *Pedes elevabuntur ſupra caput*, and that is, I think, *putting the Pyramid too upon its Pinacle, where it* *Arg.* p. 12.

can

can never ſtand; but muſt needs fall ten thouſand thouſand fathom deep, till it know no end of falling.

Now whether Judge *Bracton* were of this Opinion with Judge *Forteſcue*, Judge *Wallop*, or Judge *Fo——n*, let us conſider a little theſe his few *Prerogative-Sayings*: ——

Arg. p. 6. To begin firſt with thoſe we find granted in Judge *Fo——n*'s Year Books and *Kalends*; (for if, as he ſays, the Year *Jovian* began in 83, his new *Julian* Account commenc'd in 88,) and they are theſe: ——

Arg. p. 47. *Rex non habet parem in Regno ſuo, quia par in parem non habet imperium.*

Bract. l. 2. c. 16. *Nemo de factis ejus præſumat diſputare multo magis contra factum ejus ire.*

Item nec factum Regis nec Chartam poteſt quis Judicare, ita quod factum Domini Regis irritetur.

See *Grotius* his Account of this Caſe, *l.* 1. *c.* 4. an Authority above a thouſand *Johnſ.* One would think here is enough already to ſpoil Mr. *Fo——n*'s *Two Maxims* and *Two Points*, and to defeat theſe his *Indefeaſible Arguments*, if there were a *Thebæan Legion*, or an Hoſt of 6666 of them: For if the *People* are not *equal* to him, they can't have a Power *above* him; if they muſt not preſume to *diſpute* any thing he *does*, much leſs *oppoſe* any thing he *does*, they can't *Depoſe* or *Dethrone* him for any thing he has *done*; and there's an end of the *New Julian Æra* an *Epocha* that *preſcribes* it.

In ſhort, His Two *Clebrated Points* he was to *clear*, are as *clearly* both againſt him; the one *falſe* in *fact*, the other *falſe* in *Right*.

Arg. p. 47, 48. Vid. *Votes* of the *Convent.* and the *Act* 1 *W.* & *M.* Settling the *Succeſſion.* For Firſt, The *People* of *England* did not *actually Abrogate* or *Dethrone* King *James* II. But the *People* of *England* themſelves *ſay*, and ſo does *Fo——n* himſelf make them *ſay*, That King *James* II. did himſelf *abdicate* the Government by his *Deſertion* or *withdrawing*, and *the Throne thereby became Vacant*; and he muſt acquieſce, and admit of this *falſe* and *treacherous* Hypotheſis of *Abdication* and *Deſertion*, which he as impudently calls ſo at the ſame time he *ſolemnly* Dedicates the Complement to the very *Houſes* that had with ſo great Solemnity ſo *Reſolv'd* it, and by an Act of *Recognition* [uſual upon all acceſſions to the Crown] Affirm'd the Right to the next Succeſſors.

Arg. p. 19.

Arg. p. 47. That his Second *Point* is as *falſe* in Point of *Right*. That the *Depoſing* and *Dethroning Power* is *preſcrib'd* us by our *Engliſh Conſtitution*, the words of *Bracton*, which he does not *diſpute*, put the *Point* beyond all *diſpute*. For, as I have urg'd already, if none of his *People* are to *diſpute* what he *does*, 'tis plain they can't *Depoſe* their Prince for any thing he has *done*; and if the *People* are not his *Peers*, 'tis *à fortiori*, (as from *Bracton* may be inſerr'd) that they are none of his *Superiors*. But ſince he grants theſe *Prerogative-men* quote him for *ſo much*, I will ſhow him they can *quote* him for *ſo much more*.

Lib. 2. c. 16. Ibid. This ancient Author in the Law has alſo in that *Celebrated Chap.* and ſo Controverted Piece, quoted *pro* and *con* theſe more elevated *Prerogative* Sayings, which theſe Writers for a Republick it is viſible, would willingly make him *unſay*, and that though all the modern and later Law, Books confirm and *ſay* the ſame, *(viz.) That our Kings can do no wrong*, and are *accountable* to *Man* for *none* they *do*: And this *Bracton*'s words would bear a conſtruction I ſhould be loth ſhould be drawn from them, That even the *Miniſters* of his *Juſtice* were *accountable* only to *God* for any *Injuries* or *Wrong* done.

Lib. 5. c. 3. *Sed dicere poterit quis, quod Rex Juſtitiam fecerit & bene, & ſi hoc eadem ratione quod male, & ita imponere ei, quod injuriam emendet, ne incidat Rex & Juſtitiarij in Judicium viventis Dei propter injuriam.*

Lib. 3. c. 7. *Satis ſufficit ei,* (viz. Regi) *ad Pœnam, quod Dominum expectat ultorem.* —— And,

Cum ſuperiorem non habet niſi Deum, ſatis erit illi pro pœna quod Deum expectat ultorem. ——

Omnis quidem ſub eo, & ipſe ſub nullo, niſi tantum ſub Deo.

Lib. 2. c. 16. *Niſi ipſimet fuerint cum Rege ſine fræno & tunc clamabunt ſubditi & dicent* ——

Domine Jheſu.

No *Prerogative-men* need to deſire more; and many (with my ſelf) might not care to *quote* him for ſo much, did not the Impudence of ſuch Annotators and Expoſitors of *Commonwealth-Principles* pretend to make the ſame Author *warp* two ways, and our *Samuel* ſend him to us for a Token, like the *crooked Ninepence* he tells us of, or like the *Jani Anglorum's* theſe *Julian's* would put upon us with a *Double Face*, when the fault lies only in their *Brazen Foreheads*; for there it muſt lie, with thoſe that would bring Judge *Bracton* as a *Doriſſus* or *Advocate*, or as a *Cooke* and *Sollicitor-General* for the *Peoples* bringing their *King* to an *Account*, who has in ſuch repeated and expreſs terms made him *Accountable* to none but *God*. But the *Notes* of our

Arg. p. 47. *Notes.*

Theologiſt

Theologiſt and Divine Expoſitor are as bad, when he ſets up for a **Reader** or **Reporter**; and when he once had perverted the *Goſpel*, 'tis no ſurprize to ſee him to invert the *Law*. But this unluck Fellow will be always medling with *Edge-Tools*; and ſo much more than *Child*, as not to *dread* that *Fire* that has *burnt* it: Had he not *medled* with *Bracton*, perhaps we might not have met with this Harmony of the *Goſpel* and the *Law*, and himſelf the Burleſque of *both*; for from the *Clamabunt*, and *Domine Jheſu* of this Judge and Oracle, *Prayers* and *Tears* ſeem to have been *preſcrib'd* us of old from our *Conſtitution* and the *Law*; it is to be found (though the *Prieſt* values the *Goſpel* not a fig) for Four hundred and fifty years ago in our *Year Books* and *Law Books*, [of better Authority it ſeems with him] than the *Book of Life*. The Subjects *Cryes*, and *Prayers*, and *Tears*, ſtand upon *Record*, publiſh'd in the *Reports* of a *Judge*, more Authentick with this *mongrel Divine* than the Fable of the *Thebæan Legion*, deliver'd us down by the Tradition of a Church; they are Regiſtred among *Bracton's Regalia* for part of the *Cuſtoms* of the Realm, and help to make a little piece *de Conſuetudinibus Anglicanis*; they are reckon'd among our *Common Uſage*, and that our *Law-Books* call *Common Law*; ſo that at laſt we are come to the *Dog-kennel-Obedience* according to *Law*; Legal *Paſſive Obedience*, Paſſive Obedience by *Preſcription*, and the Goſpel *Non-Reſiſtance* of *Jovian* reconcil'd at laſt with *Julian's Non-Reſiſtance* (as far as warranted) by Law; for to *Reſiſt* and *receive Damnation*, is not near ſo terrible with ſome Divines, as to *Rebel* and be *Hang'd*; and the *Dog-kennel-Obedience*, *in Nomine Domini*, won't go down ſo well, as when Diſh'd up *in Conſuetudinibus Anglicanis*.

Tunc ſubditi clamabunt Domine Jheſu! Bract. *lib.* 2. *c.* 16. *Arg.* p. 8.

Here is a *Law-Relick* and a *Popiſh-Relick* for our *Law-Levite*, and ſuch an one as he ſays he *Loves*, and therefore I deſire he would keep to his *Text*, and adhere to the *Letter* of the *Law*, and not *preſcribe* to our *Conſtitution* but as the *Law* does; not impoſe upon us *Hocus-Pocus* and Popery, tell us only what the *Text* ſays, *this is my Body*, but not a word of what follows to explain the *Myſtery*, and make it a Remembrance and Commemoration. P. 44.

It is with a Confidence not ſo common, tho' perhaps becoming this peculiar Prieſt, who gives us *Law* for *Goſpel*, when in *both* knowing alike, and apparently the Perverter of *both*; yet ſhall top upon us the Authority of our Ancient Lawyers, and even of *Bracton* himſelf, in derogation of the Rights and Prerogatives of our Kings, and for the advancing the Power and Uſurpations of Parliaments, when he might as well pretend to prove his Argument for the *Peoples Power* out of Judge *Jenkins's Lex Terræ*, or *Filmer's Patriarcha*, as out of *Bracton's* Works that advance the Regal Power to the higheſt pitch; *which tell us, that neither Officers of his Juſtice, or any private Perſons ought or can diſpute any Acts or Mandates of their Princes, or ſo much as to put any interpretation upon any ambiguous Expreſſion*; "Sed in duobus "& obſcuris ſenſus Domini Regis; erit expectanda interpretatio & voluntas; cum ejus eſt "Interpretari cujus eſt Concedere——And this by the *way*, will go a great *way* to put the *Enactin; part*, and the *beſt part*, if not the *whole Legiſlative* in our *King*. In ſpight of the Cavil and prevarications of our Prieſt, and be rather *ſo* **agreeable** to our *Conſtitution as nothing can be more*; and if King *Charles* the Firſt, from the Inſults of the People, and the growing Power of a Parliament, that not only ſeparated his Perſon from his Authority and Crown, but his Crown from his Head, and his Head from his Shoulders, did grant that the Laws were *jointly* made by his Lords and Commons; thoſe Lords and Commons did *jointly* alſo not long after with *Charles* the Second Enact, That all thoſe Proceedings of that very Parliament ſhould be deem'd and doom'd Treaſonable; and his Proto-Martyr *Stephen Col*—— found it declar'd ſo on his *Tryal*. And alſo the ſame Parliamentary Power I think then ſtated the Matter much according to Old *Bracton's* Law; and to this Goſpeller's great Diſſatisfaction, and Confuſion, when they *Petition'd* his Majeſty that it might *not be Enacted*, (ſince there was no need of it) but *Declared as a thing that was always in it ſelf true*; *That by the Undoubted and Fundamental Laws of this Kingdom, neither the Peers of this Realm, nor the Commons, nor* **both** *together in* **Parliament**, *nor the* **People Collectively**, *or Repreſentatively, nor any other Perſons whatſoever,* **had, have, hath,** *or ought to* **have** *any Coercive Power over the Perſons of the Kings of this Realm.* 'Tis ſurprizing to ſee ſome Mens *Arguments*, that hold as much water as a Sieve, and what has holes big enough for themſelves to creep thro'. **All this** this Prevaricator and Pervertor would prove *contrary* to our Conſtitution, and *all* the *Contrary* to be *preſcribed* by it; and yet ſtill the ſame *Conſtitution*, the *ſame Parliamentary Power*, the *ſame Power* of the *People* did declare, did eſtabliſh the Doctrine laid down above, in an Act that ſtands in this Point ſtill unrepeal'd; and which knocks down as much the two Points of this Impudent Prieſt, as ever any Son of *Levi* did an Ox or Calf for the Sacrifice,

Bracton *lib.* 2. *c.* 16. *De chartis verò Regiis & factis Regum, non debent nec poſſunt Juſtitiarii nec privatæ perſonæ diſputare.* Vid *Argum.* page 4.

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12 Car. II. *c.* 30.

Arg. p. 4. 47.

P. 47.

and that by the *ſame Ax* and *Edge-Tool* of his own Argument, which he ought (unleſs he could have handled it better) no more have medled with than a *Child*, or a *Fool*; for I find my Gentleman ſtill muſters a world of Proverbs on his ſide, and ſo let him take one more to his aſſiſtance; for as *Talk is Talk*, and *Fact* with him is but *Fact*, ſo a Parliament with him muſt be a Parliament, and the *Power* of the *People*, muſt be the *Power* of the *People* ſtill; a *Reſtoration Convention*, and a *Revolution Convention*, are both I hope but *Conventions*? But our Argument-Monger makes himſelf, and his *Points* and *Maxims* all of a piece, all *Stuff*; he admits nothing to be *People*, *Parliament*, or *Convention*, but what are of his Opinion; which makes me obſerve, that as he loves Proverbs, ſo he ſpoils one; ſince he won't allow what he makes *Sauce* for a *Gander*, to be ſo to a *Gooſe*.

And that this is not only *Reſtoration Law*, but Old *England*'s Law, the Old Lawyer *Bracton* will tell him too in the very terms, and muſt by his Argument weigh as much with him, ſince on the ſame foot as that of any *Briton* or *Forteſcue*, from whom he fetches all his *Stuff*. For let the Power of *Kings*, *Lords* or *Commons* be what it will, Lawyers will *find ſtuff* according as they ſtand affected, to make a variance tho' the Cauſe ſtand ſtill as it did before; and I don't ſee why a *Forteſcue* when he writes *de Legibus & Laudibus*, is any more to be rely'd on or believ'd, when he fixes the *Power* in the *People*, and makes their Intention the *Fountain of Power*, and the *Heart Blood of the Government*, than honeſt * *Bracton*, when he tells us *Every one is ſubject to our King, and he only to God.* Or why the Book *de Laudibus Legum Angliæ* ſhould be of better Authority, becauſe writ by the former, than that *de Conſuetudinibus Anglicanis* which the latter wrote. The Subject ſeems to be much the ſame, [for *Common Law* is but *Common Uſage*, ſay all the Law-Books,] and if the *Folks Power*, and their *Motes* may or muſt be beſt decided by Antiquarians, I take it this *King's Prerogative Man*, honeſt *Hen. Bracton*, wrote about a brace of hundred years before this *Heart Blood Man* of the *People* came in play, and as this Argumentator admits, for about four hundred and fifty years ago; but our Annals and Hiſtory have left us on Record what ſort of Regal Government we ever were, better than all his *warping Prieſts* or *Lawyers* can explain; and by his leave, I do not ſee why this excellent Book of his *Judge* may not have *warped* as well *as* the excellent Books of ſome of his *Biſhops*; or why the Lord Chief Juſtice *Forteſcue*'s Book might not *warp* in *Edward* the Fourth's Reign, as well as my Lord Chief Juſtice *Cooke warped* in the Reign of King *James*, or *Charles* the Firſt. It is plain nothing carries the Prerogative higher than the latter does in his *Inſtitutes*, and yet none was more Zealous to leſſen and lower it, when turn'd out of the *King's-Bench*, and took into the *Houſe of Commons*: And this from his own Conceſſion might be the Caſe of *Forteſcue* too, who, as he ſays, *had been Lord Chief Juſtice*, and probably wrote the Book after his being turn'd out; and might then, according to ſome Modern Practices of Princes, be taken in again into the greateſt Office in *England*, when he began to grumble for the loſs of the leſs. And his Dialogue, as *Aged* and *Old* as the *Lawyer* was, was Directed and Inſtituted to a very young Prince, being but Eleven when his Father died, and ſo might as eaſily been *warped* out of his Prerogative by a *warping* Judge or Lawyer that had loſt his *Office* and *Credit* with the King, and ſo come to Court the *Heart Blood* of the *People*; who are but *odly* brought by this *Lawyer* to be the *Fountain of Power*, when our Ancient Statutes call the King the *Sovereign Power*, and *Fountain* of all *Juſtice*, and the *Law*. And *Bracton* a greater *Lawyer* ſo long before, even for 200 years, lets us know, That he is *ſubject* to no *Power* of the *People*, but *that of God alone*. So Orthodox even according to *Law* and *Goſpel* is that ſo ſcouted Maxim, and ridicul'd Motto left us by ſome late Lawyers, ——*A Deo Rex, a Rege Lex*——*All Lawyers* (I grant with our Prieſt and Levite) are *no Lawyers*; but here is my Lawyer, for his Lawyer, and his Name to it; and an Old *Aged* Lawyer, for one 200 years younger; and tho' his *Indefeaſible* Allegiance *Oath*, [which from his Principle to no Prince is not worth one Farthing] may *preſcribe* to the *Dethroning* of him, ſtill the *Oath* even of *Supremacy* which he has *Sworn* to, *abjures* the Doctrine.

It is common to ſuch Arrogant Prieſts [as this Author] to think they have the *Keys* of all ſort of Learning hanging at their Canonical Girdles; and that makes him preſume to be ſo well acquainted with the *Key* (as he calls it) of *Bracton*'s *whole Book*, but I'll aſſure him that *Key* is by no means fitted for his Uſe and Pocket, unleſs his Penſion has made him better [acquainted of late with *Whitehall* than heretofore he was, tho' now more willing to be,] for it is altogether a *King Key*, and ſo *ſtuff'd* with *Prerogative*, that it will open none of the *Locks* he has been pleas'd to put upon the Doors of his preſent Majeſty's Royal Palace and *Regal Power*; and

Vid. *Argum.* p. 47, 48.

* Bracton, *Omnis quidem ſub eo, & ipſe ſub nullo niſi tantum Deo.*

Regn. Hen. III.

Vid. *Kalends*, p. 2*d*.

Kalends, p. 2.

Notes, p. 109. 110.

Arg. p. 47.

Notes, p. 106.

and therefore where this Canonical Expositor pretends to open any thing of *Bracton's*, he is so far from making use of his *Key*, that he very fairly *picks his Lock*; which the *Law* [as much as he *loves* it,] makes Felony, and *Hanging*; to which from our *Constitution* [he may if he pleases] *prescribe*. For all that our *Commonwealths-Men* can *pick* or *quote* out of *Bracton*, is only what themselves very probably first toisted in, and from their own Comments and Annotations first introduc'd; for all the rest of his *Chapter* has nothing of their *Contents*, but the direct Contradictions to them. Their Spurious Falsifications are almost visibly *These*, which make a Clause by themselves, differing from and contradicting all that he says beside.

" *Rex habet Superiorem Legem per quam factus est Rex*——*Item Curiam Suam.* viz. *Co-* *Lib.* 2. c. 16.
" *mites-Barones, quia Comites dicuntur quasi Socii Regis, & qui habet socium habet Magistrum,*
" *& ideo si Rex fuerit sine fræno* [*id est sine Lege*;] *debent ei frænum ponere.*

Now *I say* if our *Common Law* speaks this too, [*as he says*] *by the mouth of* Old *Bracton*, *Notes* p. 24. then Old *Bracton* has *two mouths*, and too very *wide mouths*, and very *wide* asunder, and so no way fit to deliver to us the Oracles of our *Constitution*, the *Common Usage*, the *Consuetudines Anglicanas*, and that is as the Law Books say, *Common Law*, which is always consistent to Sense, and to its self; but these following Periods put together, may become a *J*——*son*, a *Mad-Man*, but not a *Bracton*, or a Man of Sence.

Omnis sub eo; & ipse sub nullo;
Superiorem habet Curiam, & Comites & Barones.

Par in Parem, non habet Imperium,
Qui habet Socium habet Magistrum.

Sufficit ei ad pœnam, quod Deum expectat ultorem;
Nemo de factis ejus præsumat Disputare,
Multo fortius contra factum suum venire.

Si Rex fuerit sine fræno debent ei frænum
Ponere——(and then in the next Line again)

Nisi ipsimet fuerint cum Rege sinè
Fræno; & tunc clamabunt subditi & dicent
Domine Jhesu.

That I take now to be the **Kurie Eleison**, the *Popish Relick* I hope he *Loves*, the *Lord have Mercy upon us* of the Church of *England's Liturgy*; *Passive Obedience*, *Dog-kennel Obedience*, *Notes* p. 25; and still according to Old *Bracton's honest words*, *Obedience according* to **Law.** 26.

Now I *say*, and so must every Man of *Common Law* or *Common Sence* say, both these can be none of the *Sayings* of an Old Oracle of the *Law* deliver'd and spoken by the Mouth of Old *Bracton*, or else let *Sam. Jo—son* like it and *love* it as he pleases, 'tis such a *Popish Relick* as must make us abandon *Sense* for the sake of the *Mystery*; and make use of the *Key* of St. *Peter's* *Successors* to **Lock** or **Unlock** it, for no *Law Key*, nor *Bracton's-Key*, none but the *Pope's* or *Jo—ns New King Key* can do it. P. 24.

I don't know why *Faction* and *Rebellion* may not surreptitiously introduce into our Law-Books from various Readings and Editions, *some Paragraphs in their favour*, as well as Heresie and Schism be propagated from the various Lections of the Bible; which some Divines [whom he cannot but admire] from the Corruption of *M. SS.* can tell him how it may be brought about. Now when *Bracton* wrote, the *Comites & Barones* were all known to be engaged in a *down right Rebellion*, [our Annals call it so;] to *Samuel* it may seem a *Magna Charta War*, as well as our late *Civil War* was a *War* of *Right*; but 'tis well known they *both* were *Bloody Wars*, and ended *both* [as late Authors, and even the Writers of those Times note of the *Barons* M. Paris. *Wars*] in *totidem Tyranni*, and making this *Magna Charta* the *Magna F*——too. And if this be Cotton *postb.* what the *People of England* from our *Constitution* must *prescribe* to, 'tis *Blood* and *Misery* en- H. III. tail'd by *prescription* to Posterity. *Notes*, p. 28.

These *Barons Wars*, the *Lancaster Titles*, the *Parliament Army* will attest this to Mr. *J—son's* satisfaction, for he *loves* such *Relicks* of Ruine and Devastation; the soaking them in *English*

Blood delights his *Heatheniſh Conſtitution*, and not the *leaving* our *Rights Dry* to *our Poſterity*.

Notes, p. 28. But the reducing too (in his own words) The *People of* England *to live under the laſt degree of Tyranny, after they have thus ſoaked their Rights in the Blood of their Anceſtors.*

For my part, I wonder, [conſidering the Reign *Bracton* wrote in,] that his Book could be *ſtuff'd* with ſo many *Prerogative Sayings* as you ſee in it, with which it is *ſtuff'd*, and *ſtuck* as *full* as ever any *Orange* was with *Cloves*, or Sir *Robert Cotton*'s Life of that very King. On the other ſide, 'tis as much to be admir'd, that there was not more of Mr. *J——n*'s Commonwealth *ſtuff ſtuff'd* into him; and the *Comites* and *Barones* being *ſtuff'd* in as *Socios Regis*, or as a late *Johnſoniſt* in the Law has it in his Annotations out of *Fleta*; *Superiores Regis*, makes it ſo viſible, that the *Comites* and *Barones* were concern'd in the putting it in, that one that *Runs* may *Read* it; or even *Samuel* himſelf, with the *debauch'd Eye* of his Intellectuals, and under the loſs of the *other two*.

Lord C. J. H. *Account examined by* W. A. p. 59.

But taking it for granted, that it was the pure Original Opinion of Old *Bracton*, That the *Comites* and *Barones* were *Socios & Superiores*; [let him ſay never ſo much alſo to the contrary;] ſtill *Sam. J——n*'s and his Friend *Forteſcue*'s *Fountain of Power* won't hold *water*; for there is certainly not a word here of the *Communes* to whom he Dedicates his Argument, nor of any *Folkmotes*, or of any *Motes*, or any *Folk* that were *Companions* or *Superiors* to their *Prince*; and that Hon. H. of *Commons* or *Companions* he honours ſo much, will hardly thank him for his Compliment *now*, who have ſhown themſelves *a Body of Men*, as much above the Flattery and Inſinuations of ſuch Paraſites who would ſet them *above Kings*, as the *King* has himſelf, a *Prince* that as little regards thoſe that would ſet him *above himſelf*.

Arg. p. 4. I ſay too *it is* not *ſo material when They* began, as **what They Are**; It cannot detract from the Antiquity or Veneration of an *Houſe* of *Commons*, if they are granted, [as ſome think] to have been a part of our Conſtitution *as they now ſtand*, but for about 450 years ſince; for all beyond it is more Cavil than Argument; and it is more than probable that about *Henry* the Third's time they were firſt Eſtabliſh'd after the manner they *now ſtand*, and *ſo far* from being Inſtituted to Invade the Rights and Prerogatives of the Crown, that they were *purpoſely* call'd to oppoſe the Encroachment theſe *Barons* and *Comites* made upon the King's Crown and Dignity. And the fartheſt Hiſtory and our Annals carry them and their Inſtitution as *now Eſtabliſh'd*, is to that of *Henry* the Firſt's Reign; the firſt ſort of which, ſays Old *Stow*, was held on the 19*th* of *April*, An. 1116. at *Salisbury*, *An. Regn.* 16. where, ſays he, the King called the Council of *Nobles*, *Prelates*, and *Commons*, which after the Name and Fame of the *French* was firſt call'd *Parlement*. And another's *Chronicle* is more plain than the other's Annals: For at that Time and Place *he firſt Inſtituted* (as he ſays) *the Form of the High Court of Parliament*; *for before that his time only certain of the Nobility and Prelates of the Realm were called to Conſultation: He cauſed the Commons to be Aſſembled by Knights and Burgeſſes of their own Appointment, made the Court to conſiſt of three parts*, the *Nobility*, *Clergy*, and *Common People*. (It ſeems our Kings being *one part* of the *Three Eſtates* was not known then,) and ſays the ſame Author, "They firſt began to ſit in ſe-"veral Chambers; the King, Biſhops and Lords in one, the Commons in ano-"ther; and other Orders of that Court he Ordained as *at this Day*. Now I look upon theſe plain Hiſtorians of as good Authority as Mr. *Johnſon*'s *Kalends*, with all the reſearches of his moſt refined Antiquarians; with all the Myſtery of my Lord *Coke*'s, *Michael Sinoth*, *Michael Gemote*, or Judge *Jo——ſon*'s *Folkmotes*, or *Witena Gemotes*, which even himſelf there does not *know what to make of*; nor with all the helps of Mr. *Pe—t*'s Elaborate Pieces can be made out to be *Meetings* of our *Commons* as *now* by our *Conſtitution* ſufficiently *preſcrib'd* to and Eſtabliſh'd; ſix hundred or four hundred and fifty year I hope is *preſcription* enough for our *Three Eſtates*, when *threeſcore* will ſerve for any Man's *Eſtate* in *England*. *Names* muſt never make *Things*, no more than every *Samuel* muſt make a *Prophet*.

Stow's Ann. in H. I.

And my Lord C. J. Coke *knew nothing of it long ſince.* Vid. c. *the* 1ſt, *and the firſt words of* c. 1. 4. Inſtit. *of Parliament, and* p. 2.

1*ſt*. Inſtit. *Fol.* 110. *Kalends, Chap.* 4.

Dr. Brad. *Introd.* *Sir* Rob. Cot. *Poſth.*

But to come to Old *Bracton*, and the *thing* before us; even good Antiquarians, and as well acquainted with the Rolls and Records of the *Tower*, are of Opinion, and do pretty well prove, That the *Commons* of *England* (as now they ſtand) were not part of the Conſtitution, and the three *Eſtates*, 'till the 49*th* of thi. *Henry* the Third; and that being but five year *before* his death, and ſo *after* (as may well be ſuppos'd from *Bract n*'s mentioning only the *Comites* and *Barones*, and no *Communes*, for *Socii*,) that Author had wrote his Book, and ſo *per Magnam Curiam* he could never conclude or intend an *Houſe* of *Commons* that was ſubſequent to it.

So

So that this *Key* of *Bracton* is either a *double Key*, or *no Key* with these *Turnkeys* of the State; and Mr. *Jo—ſon*'s *Reſpectuetur ad Magnam Curiam* will ſpoil the *Key of Bracton*'s whole Book, and make him have *Reſpect* in it to our *preſent Conſtitution* of our *Commons*, who were not Eſtabliſh'd as they *now ſtand* when the Book was writ. But I can tell him of a *Reſpectuetur ad Magnam Curiam* out of *Coke*, that will ſpoil all his conceit of their *Tranſcendent Power*, *viz.* of this Court of Parliament the *King* is *Caput*, *Principium & Finis*. I *reſpect* thoſe my Repreſentatives with more due regard than ſuch Pimps, Panders and Paraſites of a Parliamentary Power, which with them only is in order to make our Monarchical Government more Popular and *Democratick*; and ſee no Reaſon why I or another ſhould not be eſteem'd as Zealous for the Aſſerting the Rights of theſe old Aſſertors of his Liberties and Properties, that had ever more to loſe than this progging Prieſt and Levite, who wrote for a *Party*, and for *Bread*; and with as much *Wit*, and *Malice* againſt the *Preſent Government*, as long as his *Cake* was Dough, and *kept cold*. Cokes 4 *Inſt.* c. Parl. Vid. *His Notes, Kalends. Argument.*

The *Comites* and *Barones* to be *Socios* or *Superiores*, the *Socios* to be *Magiſtros*, the *frænum ponere*, were all in all probability put upon that Author by the prevailing Faction of thoſe Times, and deriv'd down from thence to ours by ſuch Books as thoſe, *de Jure Magiſtratuum*, and *Brutus* his *Vindiciæ Contra Tyrannos*; the firſt telling us too *de Jure frænandorum principum*, and the laſt, that *Tyrannus eſt qui exteros in præſidiis collocat*; from theſe *Jeſuits* and *Holy Relicks*, our *Prynns*, *Harringtons*, *Needhams*, *Miltons*, *S———nys*, *N———lls*, *Hunts* and *Jo——n*'s have taken all their *Stuff*, and ſo *ſtuff'd* the Crown of *England* with it, that it cannot be longer a *wearing Crown*, much leſs a Crown of *long wearing*, but ſo *Top heavy* as to ſend the Bearers *headlong* and *headleſs* at the *Peoples* pleaſure. So that if I might adviſe Princes, [as well as this Pragmatical and Preſumptuous Prieſt,] it ſhould be not to keep ſuch a Crown as was not worth the *wearing*, but what muſt indanger their Natural Capacities as well as Politick, and their Perſons as well as the Government, and puts them below the pooreſt Subject, who is more ſafe. A *Generous Spirit* will as much *ſcorn* to be a *Precarious Prince*, as a *Prince* of a *Paſſive Obedience People*; and may be as much *unable* to Govern *Wild Cattle*, as *unwilling* to Tyrannize over *Tame*. And who are *Tyrants Jo——ſon* has told us in his *Notes*, as well as *J. Brutus* in his *Vindiciæ*; Thoſe *that leave* any *Foreigners* in their *Garriſons*, or *deſire* ſo much as a *Guard*. So that if King *William* want his few *Dutch*, or has ſo *few* left of *Engliſh*, or muſt have *none left* at all, he muſt thank this Law-Chaplain, this Penſion'd Republican, that ſeems to have a Royal Salary for the ſowing of Sedition; the making the Subject ſuſpicious, and the Prince precarious. All that can be ſaid for him is, the poor Man was *Angry* and *Mad* together, which many times is *much* the *ſame*; and ſo like the Peeviſh Gentleman that was us'd to be hungry and well ſer, who was not to be talk'd withal 'till after Dinner; but an handſome Salary, and ſo many Diſhes at a Meal *ſets* all Right again; and *Dutch Guards*, and *Engliſh Armies* I believe may Muſter now for him in *Hide-Park*, as well as *Hownſlow-Heath*, without *Rout* or *Riot*, Remonſtrance or *Addreſs*. Vid. *Notes*, p. 106. Vid. *Notes*, and *Arg.* p. 38. Page 70, 71, 83. 70. 82.

CHAP. III.

Obſervations on Co-ordinacy, and Joint Legiſlative.

AMONG ſome other of the *Prerogative Sayings* of Old *Bracton*, I fear our Argumentator may find a very *feaſible* Confutation of ſome of his *Indefeaſible Maxims*, and eſpecially of that particular one of the *Two Houſes Joint Legiſlative*; and the *Year Jovian* may ſtill ſtand in the Kalendar by as good Law as any this *Julian* has brought us for his *Kalends* of *May*. For the Enacting part, the true Legiſlative, which is the Sanction of the Law, and not the Etymological ſound of the words, which will never alter the Nature of *Things*. That *Bracton*, as well as moſt other Lawyers affirm to be in the King: For *Legiſlative Power* according to its Grammatical Etymology ſignifies only a Power of *ferre Legem*, and that no doubt either of the Houſes have, and have always Exercis'd as moſt *agreeable* to our *Conſtitution*. *Arg.* p. 45.

Constitution. So that his Insipid Droll of their *finding stuff* is only a *Ridicule* in good *Earnest*, or a *true word* spoke in *Jest*; and I must tell him his Friend *Hicks* does not come up to the
Lib. 1. c. 2. height of his Friend *Bracton*, where he says *Leges Anglicanæ Regum Authoritate jubent.* Here
Arg. p. 6. is *Bracton's Authoritative Hand*, as well as *Womack's*. And in another place, *Illius est Interpretari cujus est Condere*, or *Concedere.* This once would have gone a great way toward a *Dispensing Power* out of the Mouth of Old *Bracton* but a little before the Revolution, and the late Act of Settlement; [which in that point, as much as it seems to Condemn it,] perhaps does not seem yet so entirely to have *setled* it.

Notes, p. 96. By this time Mr. *J*——may begin to be uneasie, but let my Gentleman be *angry* or *mad* 'tis all one to me, who fears his *madness*, more than he values his *anger*; what I have *written*, I have *written*, and have behaved my self to him much my Inferior, with much more decency than he has shown not only his *Betters*, but his *Superiors*, and even the most *Supream*; the most malicious Malecontent could never have Libel'd more either the King's Person or his Government, at the same time this Impudent Priest *expected* to be paid for it, and was so, I think, beyond any other bodies *Expectation*; if he (as he says) is the *faireſt Adversary* in *the World*, I am *fairer* than the *faireſt*; for I have only Animadverted on him out of pure Principle, and much after his own *Method* and *Style*, whereas 'tis obvious he wrote himself *out* of resentment, and *into* Preferment; and if this be the way to it, it was no wonder we had so many Squadrons of furious and fierce Pamphlets, which like the *Tartar's* Light Horse, or the *Roman Velites* were sent out before the Sitting of the Parliament, to Charge the *King*, and the *Standing Army.* Among which (I will do him that Justice) to think that Mr. *Jo*——*son* had *none*, unless in a *vizour Mask*: *Samuel* had *made* his *Hay*, and had *push'd* at every thing, as some *Mad* Cattle, who are said to have *Fœnum in Cornu.*

When I say he has scandalously Libel'd the *King* and *Government*, I do not *Calumniate* him without a *Cause*, and when there is a *Cause*, it is no *Calumny*; and therefore I won't in his
Notes Pref. Language deal only in Expostulation, and sneakingly ask *is there not a Cause?* but like one he *Loves*, like a Lawyer——*show Cause*, that there was no *Cause* for his Preferment. A Man may *stick* at words with a Fellow that *sticks* at nothing.

Notes, p. 109. And because he delights in the Number, I have but *Two* Charges in *reference* to *State Matters* to accuse him of, and in the *Mouth* of *Two Witnesses* the *Truth* may be *Established*; which still I hope he'll *clear* better than he has done his *Two Points.*

Arg. p. 47. *1st.* That he has *Libel'd* the *Government* (for that shall go *first*) because with these Men, the *King* comes *after* the *Government.* For this I have his *Hand* for it, his *Name* for it in *Print*,
Car's *Case*, and that is *Law Evidence* above the *similitude* of *Hands*, which is no *Evidence* by *Law*; for *Scri-*
and Sidney's. *bere* I believe had not been *Agere*, if *Aaron Smith* had not been sent to *Scotland*, and he can tell best now; the Animadverters on that Tryal how far he did *act*; for the bare *Scribere* indeed, it had been a little hard to hang a Man, and therefore they did well in their Reflections not to examine how far he did *Agere.* But if Mr. *Jo*——*son* has but *acted* half so far as he has *wrote*, the Government ought to have given him another sort of Preferment half a dozen years ago:
Arg. Title, 92. And if *Scribere* be not *Agere*, *Imprimere*, *Publicare* is *Agere* with a *witness*, or *without one.* He tells the *Commons* of *England*, [or more Scandalously Impudent, Dedicates to them their Re-
P. 161. *Votes* 28 Jan. proach,] That the *Abdication* and *Desertion* they *Voted* and *Resolv'd*, the means by which they
Declaration say the *Throne* became *Vacant*, was *false* and *treacherous*, and that King *James* must *needs go*,
of both Houses 12 February, *Innuendo*, (for without Law there is no dealing with this Levite) because the *Devil drove.*
Arg. p. 23. *Behold! Thrice Honourable and Sage Representatives* what is become of your Honours, and how vilely you are dealt withal, and your Patronage abus'd by your presumptuous and pretended Chaplain.

The little or no difference of the words *Abdication* and *Desertion* will do this National *Antimonarchical Calumniator* not the least Service, for 'tis actually King *James's Deserting* that the
28 January, 168$\frac{8}{9}$. very Commons *did Resolve* was one of the greatest Occasions of the *Vacating* the Throne. And in their own words, That by *his having* **withdrawn** *himself* out of *this Kingdom* he had **Abdicated** the *Government*, and that the Throne was **thereby** become *Vacant*——*Withdrawing* is only English for *Deserting*; *so says* the House of *Commons*, Sam. Jo——son's *Legislative*, the
Vid. *Arg.* p. 16. *Title* p. and p. 19. *People* of *England*, or the *Fountain of Power.* But on the contrary *says* their Chaplain, the very same *Samuel*, all this is *manifestly false*, *treacherously false*, *against the Law of* England, *by*
Notes, p. 35, 36. *which no advantage can be taken of a King's* **withdrawing** *himself, but a Summons must be sent after him to return in forty Days.* I remember much such another *Summons* was said to be

mov'd

mov'd for by a late Lord in the *House* of *Lords*, to be sent the D. of *Monmouth* to return to their House to prevent an Attainder, as this was to avoid *Abdication*; the difference only this, that *Monmouth* was at the *Head* of *his* Army, K. *J*——by *their Desertion* too, at the *Tail* of *his*. But another Peer who as slily seconded the *Motion*, desir'd He might be *sent* with the *Summons* that *mov'd* it. *Notes*, p. 98. *Lord* A. *D. of* B.

I *Challenge* this *Priest* now, with better Authority than he *Challenges Prelates*, Whether this be not downright Charging *Falsehood*, and *Treachery*, and *Illegality*, [the *three* most *odious*, *invidious* and *detestable* Reproaches that can *Stigmatize* any *Government* be it of *King* or *People*,] upon the very *People* of *England* themselves, whom he *himself* at the *same* time makes our *Governours*. *Arg.* p. 19.

But *Principalities* and *Powers*, whether they be the *Ordinance* of *God* or *Man*, are much alike regarded by this Polemical *Champion* and *Challenger* of the *Church* and *State*; who seems to me the *Dimock* of our new *Democracy*, who looks terrible, and speaks big words; and when he has shown himself, and Survey'd the ground, and the List, goes off without doing any good or hurt. We are no more to be Scribled into a Commonwealth by one such a Challenger at the Pen, than the King's Title is to be supported by the Champion's Sword. And if King *J*—— had no Title when he came to the Crown (as he says he had not) he ought to have taken up the Challenge in *Westminster-Hall*. *Notes*, p. 38, 40.

King *J*——'s Reign has not been more the Subject of his Satyr and Reflection, than the Revolution and Administration of King *William* has been treated by him with the severest *Sarcasms*, and Rudest Insults and *Reproaches*, some of which I must crave leave to recite; that the Remembrance of them may not suffer under that Darkness and Obscurity their Author does, and who is not willing things of Publick Service should be soon *forgot*; but loves the *Art of Memory* so much better than that of *forgetfulness*. *Notes*, p. 88, 89, 90.

What can Malecontentedness or Malice do more to make the Government odious, than this Demagogue and yet Darling of it has done; all this King's Foreign Expeditions and Acquists are as handsomly Ridicul'd in Mode and Figure, as Irony or Metaphor can set them forth in; and certainly none of the *best face* is put upon the Matter, when the defence of *Flanders* (upon which perhaps that of *England* depended) and as I take it the King thought so, and has told his People so, shall be assimilated to the bringing home *Saucer Eyes*, and the *Saracen's-Head*; when the King's Ministers shall be Censur'd by him (a Poor, Pitiful, Conceited and Capricious Priest,) and they most of them Peers of the Realm, for *Betraying the Publick to their own self and Sinister Ends, and Sacrificing our Naval Force by Neglect, and our National Treasure to Foreign Coffers.* These things whether true or false, are alike Calumnies in him, since the Result only of his *Spleen* and Resentment; and if he would not *venture* an *hair* of his *head* for the *sake* of *these Ministers*, he might for his Majesty's *Honour*, for which (notwithstanding his Swagger) he will venture alike, have let these Ministers alone without Libelling them. These *Ministers* I think are much the same since his *Pension* was settled, that they were before; when he Scribled like one that seem'd to have a *Salary* rather from St. *Germains*, than any Expectancies from *Whitehall*. *Notes*, p. 79, 80, 81. *Arg.* p. 14.

If His Majesty's *Dutch Guards* have done him any Service, or ever endear'd themselves so to him, by exposing themselves to so many Perils and Dangers for the sake of his Person (as Himself has been pleas'd to tell his *People*) it was time for them to take care of their own Persons; and for our *Crutches*, as he calls them, to run away from the *Cripples*, unless they lik'd to have their Brains beat out, or their *Throats Cut*; and the *Dutch Usurers* and *Dutch Lords*, [like the *Lords Danes* for the sake of their *Danegelt*] had been willing to have been Entertain'd with another such a Bloody Banquet as our *English Wives* once gave their Ancestors. If Sir *Roger L'Estrange* did use some *Bloody Words*, *Sam. Jo*——*son* has found out a way to make *Bloody Work*: The *Six Hundred Thousand Pound* would have been dearly earn'd, and the greatest kindness the Parliament could do them, was to send them out of the way; and by his bold Argument we ought not to have a *Dutch Lord* left, no more than *a Lord Dane*. But what may not some Men dare? Old *Englescheria*, and the practice of Old King *Canutus*, *Remisit ad Daciam Exercitum suum Rogatu Baronum Anglorum*, was doubtless in good *English*, to tell *Myn Heers* the *Dutch*, You must *go* the same way, or *undergo* the same Fate. *Notes*, p. 80. *Arg.* p. 23. 42. *Notes*, p. 83. *Arg.* p. 23.

But I have *Two Maxims* more of his, that *must not be forgot*; and for which the Government ought to have a *gude Memory* by his own Argument, in good *English* earnest, as well as in *Notes*, p. 91.

in his *Scotch* Banter, if it has any regard to Animadvert on its most malicious Enemies; that not only cast all the *Dirt* and *Smut* upon it, but undermine the very ground under it. But *Smut* he *will*, be it his *Ministers*, or his *Majesty*, 'tis all one to *Sam. Jo——son.*

Ibid. *Page* 91.
Vid. Pryn's *Power of Parliament.*
Vid. *His Unparliamentary Junto.*
Vid. J——son's *Notes*, p. 108. *The Original Right binds and enables us to pray in aid.*
Vid. *Kalends*, p. 30. *I beg all Nations not to let in Foreign Nations.*

'Tis such another William Pryn,
Who never was out, and never was in,
But always went thro' Thick, and Thin.

Page 90, 91.
Page 33.

And this I think he has done sufficiently in these his Two *Points* or *Maxims*; of Authority alike in their Politicks, that I hope they are in their Calumny; for he does seriously and industriously in one of his Elaborate Pages endeavour to Exhibit the severest Charge against this Government for their Lenity to the *Ministers* of the *Last*, and fairly undertakes to prove that we have therefore *no Deliverance*, since none of the *Instruments of its Tyranny have answer'd for it, but have been all Protected, or very highly Promoted.* And this is what in another place he calls a *Down-Stair-Deliverance.* Here is a fine Revolution Spoil'd, and only because *Sam. J—son* was not soon enough *kick'd Up Stairs*, and so we are *Deliver'd from Nothing*, be-

Page 90. Page 25. cause he was *preferr'd* to *Nothing.* And so from *Sam. Jo——son's Nichil habuit*, comes the Deliverance, *Nichil dedit.* And here we have again one of his *Beloved Maxims* turn'd loose upon the Government, to Worry it.

Arg. p. 19. When in another place his Two *State Maxims*, his *Lion* and *Unicorn* Arguments must be the only Creatures that Support it. But let him love *State Maxims* in Page 109, and with the help of his *gude Memory forget* that in Page 43 *he had* so great an *Aversion* to all *Maxims of State* and *Government. True* or *False*, it matters not much with him; whether *false* or *true*, he plays with his *Arguments*, *Words* and *Maxims*, as the Children do with their Windmils, each is *best*, that is their *own.*

My Mill Grinds Pepper and Spice——

But one would think a Government was not to be *Fool'd* and *Play'd* withal, and tho' so many late Lotteries may have made it look a little like *Child's-Play*, 'tis still I say an *Edg'd Tool*, not fitted for all *Fools* and *Children.*

Notes, p. 33. 90, 91. Well! we are *Deliver'd* then from *Nothing*, we have *no Deliverance* but a *Down-Stair-Deliverance* (that is to say) we are *deliver'd up* to a greater *Tyranny*, (i. e.) a *Pharaoh's Deliverance* when he more *Evil entreated* God's People, neither were they *Deliver'd* at all. Now here is the best *Deliverance* in *England spoil'd* I say, and why forsooth? Because *Sam. J——son* was

Arg. p. 27. not made a Bishop as well as *G. B.*——But then I say, had not *Titus Oates* too as good a Title

Notes, p. 91. [as he told a Bishop] to the Pastoral-Staff; (for *Lawn Sleeves* I perceive are lik'd by none of them, whatever they were by *Bishop Jewel*) since His *Sufferings* for the *Publick*, and *Barbarous Usage* was as well *lain* before a *Parliament.* To save the *Deliverance* I say from being *no Deliverance*, or coming to *nothing*, by *Sam's* own dear *Arguments*, *Points* and *Maxims*, Dr. *Oates* must be no less than Archbishop, for he had *two Whippings* to one with him, and so

Notes, p. 51. ought to have Two *Conge-de-lieres*; *ne quid detrimenti capiat Respublica*, or a double *Bishoprick.* For *Ecclesia*, especially *Anglicana*, cannot be their *Care*, and even Bishopricks with such Fellows would be but *fine Cures. Titus Oates* has his *two* Eyes indeed, and so of the two must make the better Bishop; who as the Greek Etymon intimates, ought to be an *Overseer*: and an Imperfect Priest from the *Levitical-Law* could not Sacrifice at the Altar, much less make

Arg. p. 44. an *Aaron* or *High-Priest.* Either of them are I confess good *Red-Letter* Men, the *One* is a *great Lover* of *Relicks* as himself confesses, the other once a Romish or St. *Omer's* Priest, as his

Ibid. Orders will confess, and yet both I confess may *hate Popery alike*; and I urge this only for *Justice sake*, for *Peace sake*, for the *Churches* and *State's sake*, for I would not have Men of *Merit* fall out, and about *their Merit too*; but if any preheminence must be given, [be it in

Notes, p. 81. either of Chan. *Finch's* Preferments,] it ought to go according to *Merit* too: There is no

Page 91. reason Mr. *Jo——son* should run away with all the *Red Letters*, and that all the *Almanacks* should be got into his *Bones*; for if they did not get into Dr. *O——t's* too, it was only from his having a more *Brawny Back*, and so the more *Passive.* But *Sam.* had just before set out his *Kalends*, so that his *Head* was as full of Almanacks as his *Bones*, or an Hawker's Basket

before

before *Christmas*. So that among all the varieties of *Goldsmith*'s and *Rider*'s, *Gadbury*'s and *Partridge*'s, there was hardly one poor *Kalendar* or Almanack left by this *Martyr-Maker J*—— for his Fellow Martyr Dr. *O*—— or his Protomartyr Mr. *Colledge*. But let either of these *Red-Letter-Men*, *Kalendar-Men*, *Martyr-Makers*, or *Almanack-Makers* write their *State-Ephimerides* in what *Stile* they *please*, be it either *Gregorian*, or *Julian*, [with these Amphibious Animals much the same, and as easily to be reconcil'd upon occasion, and what the Learned *German* we hear is like to accomplish;] Let these *Antimonarchists*, or Εἰκῶνα *Clasticks*, Treat *Kings* and *Princes*, Monarchy and Royalty with all the Dirt and Scurrility that the Pens of Scavengers can Cart, or things that have disgrac'd a Pillory receive, there is still a Noble Part, and no little one of our *Constitution* yet left, that will not think our *Constitution prescribes it*, who will not think [be it the *King*'s Εἰκῶν or the *Bishop*'s,] but that Dr. *O*——'s Δευτέρα is the most Odious and Detestable Piece of Scurrility that could daub a King's Picture tho' on a Sign-Post, or even *Abdicated Majesty* set in a *Jakes*.

Arg. p. 8.

Notes, p. 53.

Vid. *O*——'s Εἰκῶν Δευτέρα.

Arg. p. 47.

But this was their *Day*, and the *Power* of *Darkness* to Eclipse all the poor Remains of Regal *Power* we had left; and which it will be still worthy his Majesty's Royal Care to Preserve and Assert; and to see these their *Days* of *Jubilee* to be blotted out of their *Kalends*, and *Kalendars*, Calculated only for a Commonwealth. His Royal Descent demands the Vindication; His injur'd Blood requires and calls for Revenge; for the same *Pens* that vilifie Majesty in its Royal Capacity, will never *Stick*, whatever Mr. *Jo*——*son may* or *may not*, or Dr. *Sh*——*might*, to defame and debase the Persons of *Princes*, even to the *degrees* of the *dregs* of the *People*. This is no bare *Suggestion*, but *Fact*, and to this our *Amen* Almanack-Maker perhaps will say, *so be it*. **Fact** is but **Fact**, and *Talk* is but *Talk*; and if *Jones*'s *Tragical History* Corrupts the whole Race of the *Stewarts*, and derives it from a *Riccio*, some *Italian* Fidler and Renegado, [a forg'd injurious Calumny on that (in her way) Pious Princess, for which even *Buchanan* that bold audacious Dispersor of it, repented; that Regal Calumniator, whom this Man of *geud Memory* so much imitates.] Why according to *Jo*——*son* 'tis *a sad Story indeed*; he *did amiss*, and it *might be a defect*, for *talk* is but *talk* when all is *done*.

Deify'd, Notorious, *Insufferable Tyrant*. 30 January *Fast*, *Establish'd by Law*. The Madding Day *for the Popish*, *Bigotted*, *Merciless*, *Cruel King*, Vid. Ludlow's *Libels*.

Vid. Jones's *Tragical History of the* Stewarts. *Notes*, page 100.

And is not a King in a fine Condition now, be he *Polish* or *English* in the hands of such Varlets, that make no more of *Princes*, and of *Royal Blood*, than your Childrens Jest does of a *Tom Thumb* in a *Black-Pudding*? *Reigns*, **Revolutions**, *Ministers*, *Majesties*, *Principalities*, *Powers*, must all lie at the mouths and mercy of these Evil-Speakers of *Dignities*, if *they* according to their *great Arrogance* and little *Merits* are not *highly* enough *Dignified* and *Distinguish'd*. But Gibbets are *High Places* too, and *One* [as he says] of the *Two* ways to *Preferment*. *E Carceribus ad Metam* is but a modest Allegory for their Case, they come literally *de brevibus Gyaris & Carcere*, to be *somewhat*, to be *Worthy Men*, after they have been so long *Men Worthy*.

This very Government I have prov'd, and can further prove, owes them one and the same sort of Preferment; for our *Monarchy* and *Royal Blood*, is our true Constitution, and ought to be the *Heart Blood* of the *Government*, and to *Preserve* it, not *Abrogate it*, the first *Intention* of the *People*.

Arg. p. 48.

We have made a fine piece of *Business* of it, if the *Deliverance* must be *lost*, because every Scoundrel and Scavenger that *Swept* the *Way* for King *William* when he went to *Westminster*, does not get a more considerable Office and Employment: But yet this is in a manner the *Business*, and we must *forget* for what he *came to Town*, or what *Business* he had here; if we don't believe his *Business*, and main *Business* was to make Bishops of Mr. *J*—— and Dr. *O*.

Notes, p. 90.

Let him prove the *Bishop* what he pleases, I will be so far his Second, as from such a manner of Writing to prove him still the *Madman*, and fitter to be under the Correction of Dr. *Ty*——*n*, than Dr. *B*——*t*. For would any but a *Madman* make *Bridges* for *Monarchs* and *Kings* to come over, and then bid them go back by the *Bridges* they came, because perhaps they made a *Bridge* of the *Pontifex*'s Nose, and that they had no *Business* here, because they did not come to do *his Business*; and before he was paid for his *Bridge-making*, there could be no *King-making*; and no *Revolution*, no *Deliverance* without his *snatching* and *catching* at the *Advantages* of it. If his Business *catch'd a Cold*, could not King *William* be *warm* in his *Throne*? No; *Abrogation* and *Dethroning* shall shake it, and even Indefeasible Allegiance overturn it. 'Tis a Forfeiture of *Saul* to forget *Samuel*, and not to *remember* the *Sufferer* that said the *Bridge*, and was the *means* of this *Deliverance* that was brought, for his *Bridge* brought

Page 94.

Kalends, p. 47.

Notes, p. 93.

Page 89.

Him that *brought* the *Deliverance*; and so we know how we came by it, and at whose door to
Kalend. p. 94. *lay it*. But ought not such a Fellow now to be *lain up*? Are these to be look'd upon as *Ravings* or *lucid Intervals*, or *Complements* to be sent to Princes in a Packet? Certainly such a *Samuel*
Pag. 96. must be either *mad*, or as much *bewitch'd*, as he *says* one of his *Saying-monger*'s *Carts* was; or old *Samuel* himself, when *Saul* came to consult him, and hug the *Witch*.

I am weary of him, and would lay him aside, but that I would satisfie the Government that *they* ought to *be so*, and *do so* too. And therefore let them; for they will do well to consider,
Arg. p. 14. whether he has not *ventur'd*, as *venturesome* as he would make himself for Him, particularly to lay the greatest Blemishes and scandalous Imputations upon His Majesty's *Person*, as well as upon his *Ministers*, for whom he professes never to *venture an hair*: but still I think the Government may stand without his help; and *peradventure*, the *braying* of old *Silenus* his *Ass* did once some service to a Government. But now there is a new way of Governing, as well as of *making War*. We are better acquainted with the Noise of such Cattle; they are no such Trumpeters to inflame as formerly, neither can they do much more *good* than *hurt*. The Measures of Government will not be taken from Scribble, by a Prince that knows how to Govern without being instructed by Priests. Neither is *Burning* of *Books*, when they suit not the fancy of this insolent Fellow's *Opiniatre*, suitable to the Great and Noble Designs the present Parliament has set a-foot; to
Vid. their two *Addresses*. maintain the Peoples Just Rights and Privileges, and at the same time to support their King's Crown and Dignity, with all its *Regal* as well as *Legal* Prerogative.

But to fool no longer with him in his way of writing, which he confesses so full of *Impertinences*,
Notes, p. 97. which yet one must follow that will find him out; he has made shorter work with the King, than with all the impertinent matter which he says lay so much *in his way*. For if King *William* has not
Pag. 106. done *S. Jo*——*n*'s *business*, for which he hopes he *came*, he has done King *William*'s business, and so he may be *gone*; and so effectually, that his *business* is not only done in this World, but in that
Arg. p. 47. which is to come. For the *first*, he tells the *People*, the *Fountain of Power*, That there is not *one Instrument of Tyranny*, but what (in this Reign) have been *all protected*, if not very *highly*
Notes, p. 90, 91. *promoted*: All *Protection* and all *Promotion* in the Government of *Old England* ever came from our Kings. How 'tis in *New England*, or *Old Poland*, is nothing to us. 'Tis such a *Kalend-Complement*, as at this time of day does indeed merit Mr. *Jo*——*n* somewhat of an *higher Promotion*; And *what shall be done to the man whom the King delighteth to honour?* I wish him better luck than the *Man* that took it to himself: But for these *Protections*, and these *Promotions* and
Pag. *ibid.* *Palliations* of the *Violences* and *Injustice* of the late Times, K. *J.* begins to *look homewards*, and, as he says, gives occasion to the Princes *abroad* to form Designs to send him *home*.

I suppose he did not find it so from the Congress at *Reswick*, nor does expect it from the Meetings at *Loo*. I can only leave it with him; and as angry as he is with the *Lenity* of the Government, 'tis by that he *lives*; and I'll leave a *Proverb* more with him too, which I find from his Writings he *loves* so much, and shall only say, That some *Proverbs* may be well apply'd both in Latin and English, *Hic sceleris pretium tulit, hic Diadema*: And some may be *well rewarded for stealing the Horse*, while others are *hang'd* that only *look'd over the Hedge*.

But if King *William*'s *business* was to be done *here*, he might have let him alone for *hereafter*: But the best of it is, he is neither *Almoner* nor *Confessor* yet, and so we won't believe him. One of the best Expedients this *Man* of *God* and the *Law* can find to secure to us our *own Religion*, is to tell the *Subject*, *under his Hand*, That their *Prince is known to be of an Underhand, Complying*
*Notes, p. 105. and *Travelling Religion*. One wou'd think this *learned Author* had *travell'd* as well as his revil'd Adversary, and been at *Rome* too, to see the finery of Religion set forth in *Fiocco's*. For a *Travelling Religion* may very naturally be said to consist in a *Coach and Six*; and a *Complying Religion*, in *Complement* and *Fiocco*: 'Tis *Religion* in *Procession* and *Raree-Show*. And if this be to be the Religion of our Divine Priest, that best befits a Good *Prince* and *King* of *England*, we desire it may be left in *Italy*, or else only carried about here after the manner the *Italians* show Princes and Potentates, in a *Box*: 'Tis a *Bartholomew-Fair Religion*, [and he *pretends* to know
Arg. p. 38; the Rules of *Bartholomew-Fair*;] and as void of *Church-Pretence* as this *Johnsonism*, or *Complying, Travelling Religion* may seem to its Sacred Founder, whose Function, one wou'd think, should be somewhat of an Antidote against Atheism. 'Tis a *Cheat* instead of *Religion*; and what they do with *Cheats* in the *Fair*, he knows best that knows the *Rules* of it: 'Tis a *Down-stair Religion*, and will at last infallibly carry its Votaries to the *Grand Impostor*, that was a *Deceiver* from the *beginning*. A *Religion*, that a man may carry (as, he says, most *Dutch-men* do their Hands) continually in his Pockets, and what every fellow that can but pick them may run away with; for

when

when the *Gold* or *Gelt* is gone, and the *Gain* is gone, away goes the *Godliness* after. In fine, 'tis such an *Amsterdam* Religion, that an *Hollander* or *Dutch* Christian would be asham'd of; 'tis *Deism*, *Socinianism*, *Atheism*, all in one; or, in a word, true **Johnsonism**, *Popery* and *Paganism* put together. 'Tis such a *sublime* of *Insolence*, that none could dare but himself to put upon a *Religious Prince*: 'Tis *only* his, To make a *Tyrant* of the *Deliverer*, and an *Atheist* of the *Faith's Defender*: And so far has this Adventurer *ventur'd* for King *William*.

The *Laudæan Religion* and *English Patriarchate*, one would think, might have done as well, and, I think, a little more *prescrib'd*, or agreeable to our *Constitution*; for *Magna Charta*, I think, does a little take care for the *Holy Church*; and the Statutes of *Edward* VI. and Queen *Elizabeth*, for the *Reformation*. I have granted him, out of *both Religions* our *Travelling Religionary* may *prescribe* to *Deposing*, and *Dethroning*, and *Murdering* of *Princes*; but then 'tis the *Travelling Religion* that does it, and not the **True**. And *Mariana* the *Popish* Jesuit will have much the better of Mr. *Fo——n* our *Protestant* one; for he recommends the very same *two Points* only upon the *pure* score of *Religion*, that *Samuel* sets up for our *English Standard*, out of *pure* Self-Interest, or Interest of State. *Notes*, p. 104.

The learned Adversary of this *Law-Levite* is so condescending, (though so great and lofty a Prelate) to yield the Point to this Insolent and Impudent Priest; as if, according to his *Maxims* and *Sayings*, he had certainly the *Law* on his side, and makes a most humble and submissive Apology, in his Book of *Vindication*, for a *Divine*, and for a Man of his Function, and Profession of the *Gospel*, not being so well *Read* in the *Law*. But whether he *will* or *no*, I will do him that *Justice*, as to think he understands as much of this *Law* in question, and of our *Legal English Constitution*, as ever *Sam. Fo——n* did, and to think that he himself thinks so; but *sometimes* some People are so modest, they don't care to *speak-out*, and a *burnt finger will dread the fire*. But though *Herod* and *Pilate* may be made Friends, I will burn all my Books my self, if all the Law-Books this Arrogant Priest vouches for his Principles, are not *point blank* against all his *Points*, *Maxims* and *Arguments*, though there were an Army of them. So that he may *burn all his Reading* once more, and all what he has since *writ*; we desire no *Phœnix Editions* of any of it: I will and so will any one in his Senses, believe that *odd Remnant* of his *raving Intellectuals*, as soon as those *false*, *treacherous* and *traiterous Hypotheses* that are the Result of his Artificial and yet Incoherent Reasoning. *Notes*, p. 96.

And for this take what follows, as well as what has gone before.

In the first place, 'Tis not the *Prerogative Sayings* of *Britton*, *Bracton*, or *Prerogative-men*, that alone assert the *King's Prerogative*, and that of the *Imperial Crown* of *Old England*, (as many of our *Acts* of *Parliament* call it,) [which with this Priest, according to his Principles, ought to be the very *Test* of *Power*;] but it runs all through the Law-Books, so plain that one that *runs* may *read* it, and makes the noblest and best part of the *Common Law*. The 15th of *Edward* III. was Repeal'd, because against the *King's Laws* and *Prerogative*. *Arg.* p. 47. *Stamf. Prerog.* *Coke Littl.* *1st. Institit.*

I won't insist on Sir *Tho. Haxey's* Case, who was Attainted only for bringing in a Bill that was adjudg'd to be against the *Prerogative*: (*ill Practices*, with me, are no *Precedents*:) But that the *Prerogatives* of the *Kings* of *Old England* are the *principal part* of our *Common Law*, is the *Saying* of most of our most eminent *Lawyers*; and then as good a *Saying*, I hope, as any of Lawyer *Wallop's* *Sayings*, whether it be about the *Scaffolding* of *Paul's*, or the *bewitching* of the *Cart*; it is * Lord Chief Justice *Coke's Saying*, and therefore better than any of *Baron Tell-Clocks Sayings*; 'tis a repeated *Saying* of his, in more of his Works than one: — and of several other learned Lawyers beside.—— The *Triennial-Act* of *Car.* I. and several other *Acts* that had Royal Assent, were Repeal'd *Car.* II. by reason they were made against the *Prerogative-Royal* and the *Rights* of the *Crown*. *Ric.* 2. * *Coke Littl.* p. 344. 2. *Inst.* p. 496. 3. *Inst.* p. 84. *Vid. Stamf. Pleas of the Crown and of Prerogative.*

There is another scurvy old *Saying*, older than any of *Bracton's Te Deum's*, That *Sub nullo nisi Deo*, and *Deum expectat ultorem*. It was a Law, and a good Law, in *Henry* VIst's time, *Nemo Dominum suum Judicet vel Judicium proferet super eum cujus Legius sit.*—— If old History (as Mr. *Fo——n* does admit) is almost as good in this point as Law; then old *Gervase* the Monk says, and that was in the same Reign that *Bracton* said so, *It is manifest, the Kings of* England *are obliged to none but God*. Here are two celebrated Writers of the same time, both of *Law* and *History*, who agree in the same Doctrine of those Times. And another *Popish Relick* Mr. *F——n* will not relish so well, as much as he *loves* them: In the 1st of *Edward* IV. they declare the Sovereign Title to the Crown of *England* was by *God's Law*, and the *Law of Nature*. Here is a sort of *Divine Right*, and an *Unaccountable Power* establish'd by Act of Parliament. And long before that, the Parliament, even of one that Usurpt the Throne, or at best, took it by a forc'd Resignation, did Resolve and Declare, *That the Regality of the Crown of* England *is subject to God alone*. *Lamb*, p. 187. *Gervas. Dorab.* Col. 133. *Bract.* l. 4. c. 24. sect. 5. 16 R. 2. c. 5. 1 *Hen.* 4.

* Dr. B——t's *Hist. Reform.* lib. 1. par. 1. fol. 17.

Henry VIII. in plain words told his *Parliament* and *People*, That by the * *Ordinance* of *God* he was *King*. Queen *Elizabeth*, the Darling of her Subjects, and Patroness, as she is esteem'd, of their Liberties, receiv'd her Crown with this Recognition, That it descended to her by the *Laws* of *God*. And the same Parliamentary Power, or *Fountain of Power*, with * *unspeakable Joy* (as they word it) acknowledge to King *James*, her Successor, That he Reigned by the *Laws of God*. They Enact, and declare it for Law, and I think after the most humble manner, and not in a style that sounded like an assuming to themselves the *Supreme Power*, or the *Power* of *making Laws*, or *Deposing Princes*: They Do, *upon the knees of their hearts*, *Advise* and *Recognize* as they are bound by *Laws* of *God* and *Man*, *That the Realm of* England, *and the Imperial Crown thereof*, *doth belong to the King by Inherent Birth-right*. And that this Act could not be compleat and perfect without his Majesty's *Assent*, and therefore the same was humbly desired. Now I say, *Law* is *Law*, *Fact* is *Fact*; and this *prating* Priest's *Talk* is but *Talk still*, because this *Act* stands still Unrepeal'd.

1 Eliz. c. 3.

* 1 Jac. c. 1.

This *one* Act of Parliament is an *Abrogation* of *all Jo——n's Arguments*, *Points*, *Maxims*, *Hypotheses*, *Books* and *Libels* upon the King's Crown and Dignity, and the Imperial Rights and Prerogatives of this Realm of Old *England*: It Declares the *King* the *Fountain of Power*, and not the *People*: It Declares our *Constitution* to *prescribe* to an *Hereditary Succession*, and not to *Dethroning* and *Abrogating*: It Declares the *Legislative* to be in the *King*: That He alone makes *Laws*, and not the Two Houses *jointly*. And so adieu *Jo——n* the *Levite*, with all his *Law Maxims*, and that from the very Letter of the Law.

Arg. p. 48.

Pag. 47.

Pag. 4, 5.

But alas, it is not this one *Act* alone that is so full in this Point, and so full of Opposition to all *Jo——n's Points* and *Positions*: The *Law* is entirely against him in all Reigns, and from all Antiquity. I have nothing to do with *Wallop's Law*, *Tom. Hunt's Law*, which by transfusion past into a *Priest* that was neither *Lawyer* nor *Divine*; I might be as well accountable for all the Transmigrations in the *Metamorphoses* of *Ovid*. All that I tell you, is, how plainly the Law of old stood, and for ought I see, still stands, to defend *this* King's *Regal Power* and *Prerogative*, as well as any of his *Predecessors*, and *that* of the *Imperial Crown of England*, as our own *Acts* style it; and not the *Commonwealth* of *England*, as a confounded Rebellion, and the Result of it, *Democracy*, *Aristocracy*, *Anarchy*, and at last a downright *Tyranny*, styled it. Our *Constitution* does no more *prescribe* to the *Principles*, *Maxims* or *Points* of a particular Rebellion, Revolution, Opinion of this or that Lawyer, or of a *Fortescue*, no more than a *Wallop*, no more than the Orthodoxy of the Bible is to depend upon the Exposition of a *Jo——n* or a *Ferg——n*. The *Law* is like the *Gospel* in this sence, I say; which, as *Samuel* says of the *Scripture*, is a *miscellaneous Book*, and abounds with things *Good* and *Bad*: But he'll find the *Good there* alway to condemn the *Bad*, and so, I'll show him, does the *Law*.

Arg. p. 41.

Vid. *Coke* 3d *Instit.* c. *Treason.*

Vid. Doctor *Donne.*

Notes, p. 24.

By the Course of this *Law* this *Argument-maker* ought to be *hang'd*; and by his way of *arguing*, he ought to *hang himself*; for there are *Arguments* and *Divinity*, *Reason* and *Fact* to be found for *Suicide* also: and all this Fellow's Fetches are only from *de Facto ad Jus*. And notwithstanding his aversion to that *goblin word FACT*, he *haunts* us with it, and it runs in *fact* through all his *words* and *works*: And were he but *de facto* Hang'd, as he deserves, we would write him down so, *Here Hangs FACT*; for *Fact* is but *Fact* when all is done.

But how the *Law de Facto* stood, and stands still, you may further see. For,

This Fellow has that Impudence and Ignorance to tell us upon this *point*, (which is indeed like the rest of his *Points*) That my Lord *Coke* was the first Author of that *affected* and *villainous Distinction*, as he calls it in the *Scots Dialect*, which is as *gude* as the *Scotch Memory*, of our having *Kings* and *Queens de Facto*, in opposition to *de Jure*. Now this *villainous Distinction* is as civil an Application as his *treacherous Hypothesis*, and both to the same *Powers*, the very *Powers* and *Acts* of *Parliaments*. In the 1st of *Edward* IV. all the three *Henry's* of *Lancaster* are call'd Kings in *Deed*, and not of *Right*. In the 9th of the same Reign, by particular *Act*, Traytors to the King *de Facto* were punishable for that very Crime by the King *de Jure*. My Lord *Bacon* calls *Richard* III. a King *de Facto*. And then again, in *Henry* VIIth's Reign, we have another Special *Act*, that exempts Subjects from being question'd by a King *de Jure*, for what they did under a King *de Facto*. But by his own *Villainous Acts* he is bound never to have the Benefit of this *Act*, no more than of his *Clergy*; for he is *Lawyer* and *Divine* alike, and with the same Impudence and Authority falls foul on the Bible, [that *miscellaneous Book*, as he calls it] and our Bishops, that he does on *Littleton* and *Coke*; and what is more abominable, would still be thought both *Divine* and *Lawyer*.

Notes, p. 8.

Arg. p. 4.

1 *Ed.* 4, c. 1.

9 *Ed.* 4. c. 1.

11 *Hen.* 7. c. 1.

This

This *Law*, with which he ſwaggers ſo much, as if he were an *Oracle* of it, when alas, all the *little ſhreds* and *ſcraps* with which he pieces up his Pamphlets, are well known to be only what he pick'd up at the feet of his two *Gamaliel's*, *Wallop* and *Hunt*; the *Body* of this *Law*, I ſay, whatever *Fool's Coat* or *Knave's Cloak* he would put upon it, ever ſtood and ſtill ſtands in defiance to thoſe his *Points* and *Maxims*; as I think I have ſhown, and ſhall further ſhow. And if our *Old Law* be not like to agree with Mr. *Jo —n's New Maxims*, I can't help that; he ſhould have let the *Law* alone: I am not bound to *muzzle* the *Bear*, no more than he was to take him by the *Beard*.

By this *Old Law* of *England*, the True *Legiſlative*, the Executive Sanction of a Law is ſo plainly lodg'd in the *Regal Power*, that all the *Wallop's* and *Hunt's*, the *Galamiel's* and *Nicodemus's* to this Phariſaical Levite, will never be able to help their *lame Dog over the Stile*: ſo that his *Pen-knife* muſt go to work once more, and cut out three or four Pages of his *Argument*, becauſe all Banter, and againſt Law. *Notes*, p. 68. *Arg.* p. 45.

For the Law ſays, The *Old Modus tenendi Parliamentum* ſays, and the ſame ſays my Lord *Coke*, and moſt Law-Books, That *Rex eſt Principium, Caput & Finis Parliamenti*: And then, 'tis plain, he muſt be ſo of the *Legiſlative* too; he is at leaſt the principal part of it, the *Head* and *Tail* of it, and that I take to be as good as the other parts of it, call'd the *Whole*. If it be a Grammatical Pedantry of Words that will only pleaſe, this Law-giver and *Legiſlative* muſt [as I have obſerved] be etymologically underſtood to be *Legem ferre*. The Two Houſes have the *whole* of it, and the King has nothing of it *joint* with them: 'Tis their *Office*, of *preparing* and *furniſhing* both *Bills* and *Words*; I never heard it *deny'd*, much leſs *banter'd on* and *abus'd*: And the *Cheſt-opening Power* of the *Pariſh* of *Barking* is a fetch of his *Argument* and *Reaſon* that generally runs into Banter and Ridicule. The learned *Hooker*, though he was no *Judge*, yet is call'd the *Judicious*, and he ſays, *Laws take their force not from thoſe that deviſe them, but from the Power that gives them the ſtrength of Laws*. And though the King of *England* can't make an *Act of Parliament* without the Two Houſes Concurrence, or their finding *Stuff* and *Materials*, I tell him, his Argument is *ſtuff*, and *ſtuft* with Nonſence and Sedition, to inferr from thence, that the *Sanction* of a *Law*, which is the true ſence of *Legiſlative*, the Executive Power, is to be put into *hotchpotch* with the Two Houſes: (It is a *Law* term too, though this Levite may not like it or know it.) His Argument is compos'd not only of the Pedantry of Grammar, but of the very Sophiſtry of the Schools. For to make that the *Cauſa Rei*, becauſe perhaps the Thing could not be *done* without it, is making that the *Efficient Cauſe*, which is only the *Cauſa ſine qua non*, which a pleaſant *Sophiſter* of my Remembrance was wont to call a *Cauſe* that was no *Cauſe* at all. And therefore I ſhould deſire this *Opiniatre* of the *Law* to *call a new Cauſe*, and let the *Law* alone; for it was not made for his Capacity nor Knavery; no more to be underſtood by him, than to be perverted. When this *Oracle* of *no Law* was Carted to *Tyburn*, and *got* that *Almanack* in his *Bones*, (which yet ſome *get* about *London* with leſs pain, though they prove greater *Martyrs*,) there was a greater *Cheſt-opening Power* that carry'd him through *Holbourn*, than what he has lodg'd at the other end of the *Town* in the *Three Keys* of the Pariſh of *Barking*. But theſe *Three Keys* of *Barking* will do him no more ſervice than the *great Key* of *Bracton*, till he can prove the *King* but *one* of the *Three States*, which this *Maxim* of the *Law* mention'd above; the very *Key* of *Bracton*, and many other Law-Books and Maxims do utterly deny, and entirely confute. By his Argument, every one that had an hand in his *Whipping*, had an hand in the *Legiſlative* by which he was *whipt*; and by that it may be proved, the *Two Houſes* had him *whipt*, and not the Court or the King; for the *Law whipt* him, and *whipt* he was by *Law*.

Vid. *M. d. tenend. Parl.* *Coke 4 Inſt.* p. 1, 3, 12, 14, 18. 16 *R.* 2. c. 1. 5 *Eliz.* c. 2. *Arg.* p. 5. Ibid. Lord *Coke* 1*ſt. Inſtit.* *Coke 4 Inſtit.* c. 1. Vid. 1 *R.* 3. 1 *Eliz.*

In the *Roll* it appears how King *Edward* came and gave his Thanks to the *Three Eſtates*; of which if he were one, he ought civilly to *thank* himſelf for his Thanks too. In another, 'tis Recorded in the Name of the *Three Eſtates* of this Realm, that is to ſay, the Lords *Spiritual*, *Temporal* and *Commons*. And in the *Act* of Queen *Elizabeth*; *We the Lords Spiritual, Temporal and Commons, repreſenting the Three Eſtates of your Realm.*

Thus we ſee, that the *King-Key* of the *Legiſlative* is not a *Common Key* with that of the *Triumvirate* of *Barking*: The Parſon and the Two Churchwardens is determin'd by the Statutes, and our Books of Law, and our Acts of Parliament, an *Authority* to which all his *Notes*, *Arguments*, *Kalendars* and *Almanacks* are *Waſte-paper*: ſo *Quomodo Legis? aut non Legis? Clerice ubi ſcriptum eſt?* ſay I too. *Arg.* p. 5. *Arg.* p. 39.

My Lord *Coke*, in the very firſt lines of his excellent Chapter of the *Conſtitution of Parliaments*, tells us, *That High Court conſiſts of the King's Majeſty's ſitting there in his Royal Politick* 4 *Inſt.* c. 1.

Capacity,

Vid. *Modus tenend. Parl.* Vid. 16 R. 2. c. 1. 36 H. 7. *Capacity, and of the Three Estates of the Realm,* (*viz.*) 1st. of the *Lords Spiritual*; 2d. the *Lords Temporal*; and the 3d. *Estate* is the *Commons* of the Realm: plain words in the letter of the Law, and out of the Mouth, and under the Hand of the greatest Lawyer.

Dier. 60. 14 *Hen.* 8. 35 *Eliz.* c. 12. *Dier.* 38 *H.* 8. fol. 59, 60. 4. *Inst.* p. 1, 3, 9, 12, 18. That the *King* is the *Head* of the *Parliament*, the *Lords* the *principal Members*, and the *Commons* the *inferior Members*, was Law long before that; and if this *Levite* will look into the *Law* I have left him in the Margin, and will read the Law before he writes of it, he'll find it so. And his beloved *Modus*, made before the Conquest, says more; for it makes the *King*, as I have observ'd, both *Head* and *Tail* of the Parliament, and so the *Two Houses* can be *neither*. And by this *Modus*, or Manner, *William* I. [be he *Conqueror* or not *Conqueror*, for the Learned differ *] held his Parliament, *approved* it for our *English Constitution*; and (as my Lord *Coke* says †) according to this *Modus*, held a *Parliament* for *England*. *Magna Charta* approves this *Modus*, and the other Charters were regulated according to this *Modus*. And certainly then this *Modus* must be as good Law when it asserts the *King*'s Prerogative, Supremacy, or Superiority, as when it is made by these *Anti-Prerogative-men*, the great Support of the Subjects Privileges, Properties, and Liberties; for *Modus* is but *Modus* still, and much good may it do Mr. *F——n*, who has done his Cause but little good yet with the Law. A *Concern* in the *Legislative*, and in the *Sovereign* and *Enacting Power*, are Powers vastly different.

* *M. Petit. Argum. Antinorm.* Dr. *B.* Answers, though most Histories and Law-Books call him so.

† 4. *Inst.* p. 2.

And after all, it is not the *Co-ordinacy* of the *King* in the *Legislative* that alone is so contended for by these *Democraticks*: That which they labour for, is what they would have follow from it, and might well inferr [a *Concession*, which, as the Schools say, *Dato uno absurdo, mille sequuntur.*] And this very thing made the Parliament of 41, that overturn'd our *Constitution*, and to which, for that good reason, we do not *prescribe*, so zealously to insist on the Advantage they thought they had got from the Lapse of King *Charles* I. in the penning one of his Answers to the Remonstrance of the *Two Houses*, wherein he seem'd to admit and own himself one *Third part* of their *Three Estates*; and therefore Mr. *Rushworth* very wisely (but not, I hope, so honestly) publish'd King *James* Ist's *Speech* to his *Parliament*, and makes that King thus tell them, Their *Constitution*, and that a Parliament, does consist and is *compos'd* of the *King* and the *Two Estates*; whereas the Original Manuscript of the late Archbishop of *Canterbury* plainly tells us the quite contrary, and that the King's words were, (which he either falsifies, or falsely publishes,) That it was *compos'd* of the *King* and his *Three Estates*. But *Royal Authority*, with these sort of Authors, is a very insignificant Thing; and therefore what the Subject says, with them *may* have more weight with it, and then what the Law says *must* have more again. And therefore though *Sam. Jo——n* tells us, what the Chancellor told the Parliament in the 8th of *Edward* IV. and that he declared the *Three Estates* to consist, 1st. of the *King*, as *Chief*; 2d. of the *Lords* and *Bishops*; 3d. of the *Commons*: I will tell him of as good and better Authority that *states* it quite otherwise. My Lord *Coke* is allow'd to be the greater Lawyer; and if we had no other or better Authority, he tells us quite another story. In his excellent Chapter of *Parliaments*, he tells us, It is compos'd of the *King*, as *Head*; and of the *Three Estates*, which are the *Lords Spiritual*, the *Lords Temporal*, and the *Commons*.

Vid. *Rushw. Jac.* 1. Vid. *Nalson's Collect.* ibid.

Kalend. p. 7.

But to wave the plain words of the greatest Lawyer, let us look and see what the Law it self says; and then we find the very old *Modus tenend. Parliament.* says, That *Rex est Principium, Caput & Finis Parliamenti.* Now by Judge *Jo——n*'s or Judge *Fortescue*'s Leave, if our *King* shall have Leave, *to play the Rex*, (for *Royal Power*, with these Panders of a *Popular* one, is but a Puppet-Play,) then those *three words* of the old *Modus* will quite exclude him from being *one* of the *Three Estates*, if they do not make the *whole Estate* to be establish'd in *one*. But the *old Modus* of our Ancestors, with some new Politicians, is like their old Cloaths, which they make either foolish or fashionable according to their fancy. And therefore though *Sam. Jo——n* loves the *Modus* sometimes as well as other *old Relicks*, when it puts him in the *fashion*, in a good Gown and Cassock, and a competent *fine Cure* or *Pension*, a *Comfortable Importance* with a *Leathern Convenience*; but *hates* it as much as *Popery*, when it pulls off his Gown, puts him in a *Stone-Doublet*, or a *Wooden-Ruff*, or the *Dirty-Abhorring* Attendance at a *Cart's-Arse*; yet *Law* is *Law*, as well as *Fact* is *Fact*. However, we won't rely too much neither upon his beloved *Modus*, especially since another of his *Coadjutors*, *Will. Prynn*, of as good Authority as *Tom. H——nt*, calls it, *a meer spurious Forgery and Imposture of Antiquity, full of gross Errors and Absurdities* But I hope none hitherto have thought *Rolls* and *Records*, *Statutes* and *Acts of Parliaments* such, and to them I dare appeal also.

Vid. *Notes.*

See his *Preface* to *Cotton's Abridg.* Vid. *Argum. Anti-Norm.*

Old

Old *Verſtegan* tells you of the *Three Eſtates*, *Lords Spiritual*, *Temporal*, and *Commons*, in the *Conqueror*'s time. In the Record of *Edward* III. the *whole Eſtates are willed to Conſult.* Upon which, the *Roll* ſays, *The Lords and Commons took Great Advice:* words that won't admit the *King* to be *one* of thoſe *Eſtates*, be they *Two* or *Three*. So in ſeveral others, the *King* gives *Thanks* to the *whole Eſtates*, and not to himſelf, as *part* of them, and *one* of the *States Generals*. And in another *Roll* of *Hen.* V. antecedent to the 8th of *Edw.* IV. and mention'd 23d of *Hen.* VIII. the *Three Eſtates* are expreſly nominated to be requir'd to give their *Aſſent* to a Peace made with *France*, which muſt be meant of the *Lords Spiritual*, *Temporal*, and *Commons*. And as we ſee how it ſtood defin'd upon Record *before* the new Definition of the Chancellor in *Edw.* IV. ſo you'll ſee what ſence Antiquity had of the *Three Eſtates* ſoon *after*. I could have inſtanc'd in a *Chancellor* too in the ſame Reign, who, in his *Speech* to the *Houſes*, made *Four Eſtates* of it, if we muſt take in the *King* for *one*; for as the Book of Record ſays, he concluded it under the *Perſon* of the *King*, under the *Perſons* of the *Biſhops*, under the *Perſons* of the *Lords*, and under the *Perſons* of the *Commons*. But letting alone what our *Chancellors* ſay, we will have recourſe to what the *Rolls* and *Acts* themſelves ſay: And,

22 *Edw.* 3. *Abr.* p. 69. Vid. 38 *Ed.* 3. ſo 40 & 42 *Edw.* 3.

17 *Edw.* 4.

The 1ſt of *Richard* III. puts the Point out of the reach of Cavil and Diſpute. I know *Sam. Jo*——*n* will lick his lips again upon this old *Relick* of *Popery*, ſince 'tis a *preſcribing Relick* for *Abrogating*, *Dethroning* and *Murdering* of *Princes*, according to our *Conſtitution*; but it *abrogates* away clearly too his Chancellor *Forteſcue*'s Opinion, in 8 *Edward* IV. *Read*, *Try*, and *Judge: Whereas* **before** *the Coronation and Inthronization of our Sovereign Lord*, Richard III. *a Roll of Parchment*, &c. on the **Behalf** and in the **Name** *of the* **Three Eſtates** *of this Realm*; that is to ſay, of the *Lords Spiritual* and *Temporal*, and of the *Commons* by Name. And as they call'd themſelves the *Three Eſtates* in their *Convention*, before they had their *King*, who could not make *one* of them before he was ſo; Therefore it follows,

1 *Ric.* 3.

Now by the ſaid **Three Eſtates** *aſſembled in this preſent Parliament*, &c. And further, in the *Act* that Recognizes his *Right*, which though it *abrogates* his *Nephews* after they *murder'd* them, yet Enacts, *That* **his** *Title and Eſtate in the Crown-Royal and Dignity of the Realm, was grounded upon Right and Inheritance, upon the Laws of God and Nature, upon the ancient Laws and laudable Cuſtoms of the Realm*; [words, I think, that *abrogate* too all *Preſcription* to *Abrogation* and *Dethroning*.] There we find too, when in full Parliament, they define themſelves in theſe words:

Therefore, at the Requeſt, and by the Aſſent of the **Three Eſtates** *of this Realm*; that is to ſay, the *Lords Spiritual and Temporal, and Commons of this Land, aſſembled in this preſent Parliament.* And then in the end, *At idem Dominus Rex de Aſſenſu* **dictorum trium Statuum Regni** *omnia & ſingula præmiſſa in Billa prædict. contenta concedit, & ea pro vero, indubio pronunciat, decernit & declarat.* Here is ſuch a deal of Legiſlative, that in one *Act* it undermines and blows up *S. Jo*——*n*'s other *Two Maxims*, (for he may have Two hundred that are not worth one farthing) of the *Co-ordinacy* of the *Legiſlative Power*, as well as of his and the Chancellor's *Three Eſtates*; it blows up his Arguments, I ſay, as effectually, as *Faux* his Gun-powder would have done the *Two Houſes*, and all the *Eſtates* of the Realm. But yet, as much as he *loves Relicks*, I don't like the making *good* my Argument from *bad* Times, and to *preſcribe* to *Antiquity*, to make the *preſent worſe*; therefore will conclude with the Authority of the *beſt Days*, and *beſt Parliaments* we have had ſince the Days of our *good* and *beſt Queen*, Queen *Elizabeth*, who there themſelves tell us what we are to take for the *Three Eſtates*: That is,

We Your Majeſty's moſt Dutiful and Loyal Subjects, the Lords Spiritual and Temporal, and Commons in Parliament Aſſembled, repreſenting the **Three Eſtates** *of your Realm*: and this being Unrepeal'd, ends the Diſpute, and can even ſilence Cavil. 'Tis plain Letter and Law, and therefore above Argument, which I never fetch'd from *Times* or *Parties*, but at *all Times* have *argued* againſt *all Parties* who invaded the *Legal Prerogatives* of our *Regal Conſtitution*.

1 *Eliz.* c. 3.

Let the *King* be *one* of the *Three Eſtates*, every one of the *Three Eſtates* will be alike *Kings*: And there we have the *Three Kings* or *Keys* of *Barking*, which muſt be alike *powerful*, if they have the ſame *Cheſt-opening Power*, though they may have different Wards to open different *Locks*; but theſe may be *Kings* of *Barking*, or *Kings* of *Brainford*, but I am ſure they are no *Kings* of *England*. By the ſame Argument the *Individuals* of *two* of thoſe *three Eſtates* may be called *Kings* too, and, I think, have been ſo called, and 'tis what theſe *Scribes* would *aſcribe* to them. And then in the days of Mr. *Jo*——*n*'s *Forteſcue* we had but 300 *Kings*, for only then, he ſays, ſo many ſate in the *Houſe of Commons*; and now we may have about 500, ſince at leaſt

Coke 4. *Inſt.* c. Parl.

ſo

so many their *House* now contains. And does not this now make as *pretty* an *Argument* as Mr. *Jo—n*'s Book, that is, as pleasant a Jest? If every part of a Politick Body, that has but the least share or shadow of a *Legislative*, must participate as much of it as the *King*; it may be as easily proved, That every petty *Town-Corporate* is as *Co-ordinate* with the great *Convention* of *States*, and Mr. *Jo——n*'s poor *Parish* of *Barking* (pardon his Comparison) as much *Legislators* as the *High Court of Parliament*; for by the Laws of the Land, and *Custom* of the Realm, even those can make their *Bye-Laws*, and binding to the Subject, (and that *without Custom* or Prescription,) if they be but for the Good of the *Publick*, or, as the Law says, *Pour Reparation del Eglise ou d'un haut voy* ——— So that here, by Mr. *Jo——'s Book-Argument*, for 'tis no *Law-Argument* (you see,) nor *Sence-Argument*, we have a sort of *perfect Legislative* **Three Estates**, or *Three Kings*, in the *Parish* of *Barking*; and not only the *Parson*, with his *Two Churchwardens*, but the *Waywardens*, and the best of the Parish, have a sort of *Legislative* in to the Bargain.

Arg. p. 5.

Pag. 23. Behold, *Thrice Honourable* and *Thrice Sage Representatives* of your *Country!* By such *Arguments*, what will become of the *Legislative?* what will become of our *Monarchy?* By your *King*'s being one of the *Three Estates*, what will become of our *Laws*, that say the * express contrary? 'Tis no matter *what becomes* of such Authors and *Arguments* that contradict them. Let such †*Dedications* as would put *false*, *treacherous Hypotheses*, *dangerous* and *destructive* to our *English Monarchy*, upon an *House of Commons*, who by their † Oaths are to be true Assertors of it; let them be *blotted* out of your *Journals* and *Remembrance*, and their Books *purg'd*, but ‖ *so as by Fire:* For this is the *Power of Darkness*, or that *dark side* of *Impotency*, that will bring us all (as once it did) into Confusion, and *blot out* all the Remains of *Royalty*, and the *Rights* of our *English Monarchy* and *Constitution*. Your *Honours* have shown your selves, in your late *Sessions*, * such *Sage Representatives*, as were ready upon all Occasions to Consult your *Country*'s *Good*, and at the same time the *King*'s *Safety*, and *Just Rights:* Let the *Laws* that relate to them *stand* as they are, without altering them to please a Levitical Perverter of them, that wanted only a *Conge d'Eslire*, while he cry'd *Nolo Episcopare*.

* *Coke* 4. *Inst.* c. 1. 1 R. 3. 1 *Eliz.* c. 3.

‡ *Title-Page.*

† They swear in Parliament the *King* is the *only Supreme*, &c. Vid. 5 *Eliz.* cap. 1.

‖ Pag. 7.

* See their *Addresses.*

Bracton, l. 1. c. 2. *ut supra.*

The *Old Laws* of *Old England*, which our *old* Ancestors said *nolumus mutare*, as they stand, say thus, *Leges Anglicanæ Regum Authoritate jubent*, (as I have observ'd before.) Now here is, in two or three words, all the six Pages of *Jo——n*'s *Arguments*, and half a dozen more, turn'd all again into *Stuff* and *Banter*; and the *King*'s *Hand* made the *Authoritative Hand*; not by Dr. *Womack*'s *Hand*, but under Judge *Bracton*'s *Hand*. But his Impudence may call this an *Insolent Expression* also; but so we see the Law expresses it self, therefore we will, to supersede this Priest's *Insolence*, (if possible) see how our Solemn and Judicious Acts of Parliaments, in this Point, upon weighty and extraordinary Occasions, were wont to *express* themselves, and do *express* themselves upon this Subject: But with such *Insolent Fellows* our Acts of Parliaments may have *Insolent Expressions* also.

5 *Edw.* 3. In *Edward* IIId's time, an *Act* was declared void, though *Past*, because the bare Form of *Le Roy vult*, by Error, was wanting to it, though the *King* had declared his *Assent* to it.

22 *Edw.* 3. c. 6. In the same *Edward* IIId's Reign, Resolved the *King makes the Laws*, by the *Assent* of *Lords* and *Commons*.

32 *Hen.* 8. c. 21. The *Royal Assent* to an *Act of Parliament*, signed with the *King*'s Hand, and express'd in his Letters Patents under the Great Seal, and declared to the *Lords* and *Commons*, shall be as effectual as if he came to the *House*, and *Assented* in his own Person. This, if the *King*'s *Legislative* were *Co-ordinate*, himself one of the *Three Estates*, were absurd and impracticable.

12 *H.* 7. c. 20. 4 *H.* 7. 18 *H.* 8. 7 *H.* 7. c. 14. The Laws and Acts of Parliaments declare it is no Statute, if the King *Assent* not; and he may *Dis-assent*: His *Negative Voice*, (which Mr. *N—— ll*, Mr. *Hu—t*, and this their Pupil would take away) by this Law is *Enacted* and *Establish'd*. And such Fellows as in so high a Point presume to *take off* the *Law*, the *Law*, in all Common Justice, ought first to *take off* them: For my Lord *Coke* well observes, *No one wrestles with the Law, but sooner or later it breaks his Neck.*

CHAP.

CHAP. IV.

Our Kings anciently more Absolute, and the Folk-motes no Parliaments.

MR. *Jo*——*n*, by his way of making *Kalendars* and *Almanacks*, does not seem to be taken so much with the *Young Law* of King *James* I. or *Car.* I. and II. or the *Middle-aged Law* of *Hen.* VIII. *Hen.* VII. and *Edw.* III. (which, by the way, are the best Guides, in the clearest Path, and without the Wilderness of Antiquity.) Yet however, for Good-fellowship-sake, see also what says the *Old Law*; and when we come thereabouts, we find old *Lambard*, that wrote a Book of them, to say thus, and to teach Priests what *Prerogative* is, and *Duty*: *Si summo Jure urgetur, ad Regem ut Onus allevet provocato, Docemus quod ministri Dei secularibus suis dominis firmi sint & fideles.* 'Tis *Allegiance*, and *Passive-Obedience*: 'Tis a sort of *Dernier Resort*, and a *Dispensing Power* as old as the days of King *Edgar*. And from other Parts of his Works, you find, the Seven Kingdoms of the *Saxons* had all their Laws made by their Seven several Sovereigns; of which confus'd number the *Confessor* cull'd out the best, and call'd them after his *own* Name, *King Edward's Laws*, or *the Confessor's Laws*, which they bear to this day. And so did also other of the *Danish* and *Saxon* Monarchs *make* and *nominate* their Laws, with the assistance only of such *Witena's* or *Folks*, *Wise Men* or *otherwise*, as they thought fit should *mote*, meet and assemble. I do not value it that *hair* of his *head* he would not venture for His *Majesty's Ministers*, whether he will *make* this a *Parliament* or *call* it a *Parliament*: He may *make* himself or *call* himself what he pleases, as King *Charles* II. pleasantly answer'd to a celebrated *Minister* that desir'd leave to call himself a *Marquis*. But this I'll *say* and *swear*, That it was then no House of Lords, and no House of Commons as *now constituted*, and *nothing like it*, as well as their Arguments fetch'd from thence are *like to nothing*.

Lamb. Edg. Leg. *Human.* p. 63, 65. *Docemus*, &c.

Leg. Inæ. *ibid.* p. 1. *Ego Inas Dei beneficio Occiduorum Saxonum Rex suasu & instituto Cenredi patris mei, Hedda & Erkenwaldi Episcoporum meorum, omnium Senatorum meorum, & natu majorum sapientum populi mei.*

Ego Aluredus *Occidentalium Saxonum* Rex prudentissimorum è nostris *Consilio usus sum*, &c. Leg. Alured. Lamb. p. 22.

Arg. p. 14.

In those days they were Conven'd for their *Advice*, and not to give their *Votes* and *Consents*; which varies as much as *Content* does from *Not Content*, and *Yea's* from *No's*; for the Questions were hardly or never put. Their *Folk-motes* then, by what will appear, were not unlike to those we find in *Sweden* or *Denmark* now, where the *King* meets to *propose*, and the *Witenagemote* and *Folk-mote* to find out *Expedients*, and not *Disputes*. For though the Matter *propos'd* may be carry'd by a majority, they are generally Unanimous in their Resolutions to gratifie the *King's Will* and *Pleasure*; and that, in effect, was the *Proclamation-Law* of our old *Saxon* or *Danish* Arbitrary Kings of *England*, and to *prescribe* to that *Constitution* now, is to *prescribe* to *Slavery*, *Popery*, *Tyranny*. I do not only say so, but I shall prove it so down from our Conquest by the *Romans*, where we were a Colony of *Tributary Slaves*, to our *Conquest* by the *Norman*, by which we were made but little better. And Mr. *Jo*——*n* knows the *Danegelt* was an Imposition *Sans Parliament*, *Sans Michael*, *Sinoth*, *Witenagemote* or *Folk-mote*: And they never *moted* till they came to Cutting of *Throats*, and our old *English* Wives decided it in the *Meeting* of *Gossips*. From which, without the help of *Spelman*, or the *Glossary*, I will teach him to *spell* one *Mote* more, and this may be call'd the *Frauenmote*. This old St. *Brice's Day*, or the *Danish* St. *Bartholomew*, was indeed a *Cruentum Negotium*: But whether this Sacrificing Priest did *moliri* such another, and to make *Lord Danes* of *Mynheer Dutch*, when he puts the Parallel, and makes them such another sort of *Usurers* and *Merchants*, I'll *venture* to leave to His *Majesty's Ministers* to *decide*, for whom he will *venture* just nothing. If so, as I observed before, the late *Parliament*, to preserve their Throats, sent them away in good time. They ought, if they had look'd to their own preservation, to have gone sooner; for, by *Sam. Jo*——*n's Notes* and *Arguments* [which had *whetted* it well] the *Knife* was at their *Throats* ever since 92, and 94; and here must have been *Knighton's Cruentum Negotium* again, because *Rogatu Baronum Anglorum non remisit ad H*——*diam Exercitum suum*. And have not His *Majesty* and *Ministry* a fine time of it, when *He* and *His* must lie at the mercy of such

Hæc sunt Senatus-Consulta & Instituta quæ Aluredus & Guthrunus, Edovardus & Gutbrunus Reges tulere, quæque postea à sapientibus recitata. Lamb. pag. 41.

Ego Edovard. Rex etiam, atque etiam mando. Leg. Edov. Lamb. 38.

Arg. p. 23, 42.

Arg. p. 42.

Arg. p. 23, 42.

Notes, p. 83.

such *Argument-makers*, *Kalendar-makers*, and *Monarch-makers*? Nor can a wise *Parliament*, a true *Witenagemote*, be condemn'd for Consulting the preservation of those whom a *Court-Pensioner* has taken so much pains to murther and destroy.

Take a short view of the *Tyranny* of the *Danish* Reigns; the Revenge of which this preposterous *Court-Writer* and *Cut-Throat Libeller* recommends; and yet, for *Liberty*'s sake, sends us back to review. Look upon the Proceedings of the *Norman*, which some would (of the same Complexion with *Jo——n*) have to be no sort of *Conqueror* at all, and indeed Authors and Argument-makers alike; and then tell me whether the tredding so hard on the heels of Antiquity, for the sake of our Liberty, will not dash out the Teeth of those that follow her; and by *Absolute Kings*, reduce us into *Absolute Slavery*. 'Tis plain, as much as *Sam. Jo——n* has gloriously and triumphantly routed them now, we had the Devil and all of *Conquerors* from the beginning. The *Romans* Conquer'd us, 'tis plain, or else their Authors and ours lye both; but indeed, I must confess, for the glory of our old Ancestors, they were a pretty while about it: It was a work from *Julius* to *Domitian*, and worthy only of all the Twelve *Cæsars*, and almost of Two Hundred Years to compleat it; but our business was done at last, and, as their Historian tells us, we were *Conquer'd* and Reduc'd: *Dum singuli pugnant, universi vincuntur.*

See Mr. P—— *Append.* and *Arg. Anti-Norman.*

Suetonius, *Tacitus*, and all our Histories.

But to come nearer to the Old Days and *Kalends* of *Folk-motes*: Our Old *Britain*, *Vortiger*, to preserve himself from the *Highlander*; for neither *Agricola*'s Wall, nor *Adrian*'s or *Severus*'s Additions and Reparations could do it, it seems: [Which, by the way, *Indefeisible Sam.* may as well make out to have been the Fortifications * of *Namur*, as the old *Folk-motes* our present *Parliament*:] To hinder, I say, these *Picts* or *Scottish* Incursions, did that old *British* King call in the *Saxons*; but whether he did it by the Advice of his *Witenagemote* or *Folk-mote*, is much a question: I think one of our Historians says, it was either done upon his *own head*, or *only* upon the Advice of his *Cabinet-Councellor* the *Prophetical Merlin*, (*i. e.*) in modern *English*, another *Jo——n*, a *Kalendar-maker* or *Almanack-maker*, as he *makes* himself. But that prov'd a *Cruentum Negotium* too for Old *England*, and a very *bloody Business*; and as *Merlin* easily *whistled* them in, so they were resolv'd, and so we found it, that they would not be so easily *whistled* out, and many a *bloody Battel* was fought before we could get them again over the Water.

* *Stow* makes it a Bank of Turfs.

Arg. p. 42, 43.

In these Reigns, I think, we don't much *prescribe* to *Parliaments* or *Folk-motes*: Old *Merlin*, it seems, was *Privy-Councellor*, *Witenagemote* and *Folk-mote*, all together. But I'll grant him, in those days, we can *prescribe* to *Electing*, *Dethroning*, *Abrogating* and *Murdering* of *Kings* and *Princes*. For *Vortiger* was *Elected* and *Depos'd*; his Son *Vortimer* was *set up* and *set down* too, and *Vortiger* again *set up*. Old *Aurelius* the *Roman* burnt him at last in his Castle, and then *set up* himself; and then he, and his Successor *Uter* (the very Father of King *Arthur*) were both poison'd. And here is indeed a devilish deal of *Prescription* to *Cruentum Negotium*: but how our *Constitution* comes to *prescribe* to this, I cannot understand; and do averr and affirm, That was *none* of our *now Constitution*. And so here is this whole *Argument-maker*'s Book spoil'd in few words, and the *Conqueror* of Kings *Conquer'd* by his own *Argument*. Theirs *then* was none of our Constitution *now*; first, because it was *Tyranny*, *Absolute Power* without *Reserve*; no Rule of Laws or Limitations, but either the *People Tyranniz'd*, or the *Prince*; they took it by Turns. But though the People *Depos'd*, *Hereditary Succession* was still regarded: We were not come to that *Polish Monarchy* even *then*, to which some of these *Sobieski-men* would bring us *now*: We were then no *Limited Monarchy*, and had *then* no *Parliaments* as *now*; and therefore to have recourse to those *dark* Times, after so long a Series of a *Settled Monarchy* and a True *Established Parliament*, and *both* by so many repeated Acts in several Reigns, that set it in so clear a *Light*; this, I say, is *Folly*, *Knavery*, *Treachery* and *Treason*.

Vid. 25 *Ed.* 3. 3. *Instit.* c. 1. Treason.

Sigebert was a Cruel and Exacting Prince under the *Saxon Heptarchy*, and then very fairly forc'd to flie from his Government, and was slain by a Swineherd: And therefore, — *Ergo*, — *Tar-box*, — *Sam. Johns* for that, —— *Deposing*, *Dethroning*, *Abrogating* is *prescrib'd* us by the *now Constitution* of our *English Monarchy*. I am sure this is *Stuff*, though it be no *Prerogative-Stuff*, and *mad Stuff* too, and like his *Mouse-Trap*, that *snaps* and *catches nothing*.

Arg. p. 47.

By their Stories, *Ina* and *Ethelbert* were sole *Saxon Monarchs* who were only two of the *Heptarchy*.

Our History says of King *Ina*, one of the same *Heptarchy*, that *he ordained Laws*: And Mr. *Lambert*, that translated them, says, so did the other *Saxon* Sovereigns too, and so did the *Confessor* that cull'd and collected them, and call'd them after their own Names: but we would be loth, by the same Argument, (as much a *Prerogative-man* as Mr. *Jo——n* may think me) that our *Kings* should *prescribe* now to the same *way* and *manner* of making of *Laws*: That old *Modus* won't agree with ours *now*, though it were with all the *Assent* and *Consent* that the *Witenagemotes*

and

and *Folk-motes* of those *Days* of *Darkness* could give it. Mr. *P*——'s History of the *Commune Concilium* of King *Ina* is borrow'd from a Monkish Fable, and of as much Authority as one of *Æsop*'s; for the same Story tells us, this King *Ina* was *Elected* by an *Angel*. So that we may *prescribe* too to a *Polish Monarchy* with a *Jure Divino*. 'Tis plain, Mr. *Jo*——*n* was in the *dark* before he lost his *two Eyes*, and for which I am more concerned than he would seem to be. *Arg.* p. 37.

But now we come to the *Period* and the *Point* of our Authors. The good Laws of the Law-maker, King *Alfred*, who, when all is done, was directly descended from the old *Saxon Conquerors*; and his immediate Great-Grandfather King *Egbert* had not long before for him *Conquer'd* all the other Six of the Seven *Saxon* Kings, as *they* the *Saxons* had formerly for themselves *Conquer'd* several of the *Britains*. Now by his Argument, our *Constitution* may as well from old Annals and Law *prescribe* to *Conquest*; for here is a world of *Conquering work*, first from the *Roman Conquest*, then the *Saxon Conquest*, then from King *Egbert*'s *Conquest*, then down from King *Alfred* to the *Danes Conquest*, from the *Dane* to the *Norman Conquest*; but from *William the First* I will go no *further on*: And I hope the Commons that have shown themselves such *Sage Representatives*, will take care Mr. *J*—*son* does not with his Arguments *prescribe* too *far back*, least the Bishop's Book and his meet, and in the same *Fire Ordeal*. I am sure here is a *scurvy Pedigree* of very *Powerful* and *Conquering* Kings, and a more *scurvy Pedigree* against the *Peoples Power*, than that he says Dr. *Brady* has drawn for the *House of Commons*, for that *Sage Body* and Bulwark of our Liberties, and of the *King*'s *Rights* and *Prerogatives* too; [but of *both*, no longer than it keeps it self within its due bounds; for if the *whole* Legislative were Unlimited, *part* of it nevertheless must have some Limitations.] That Great and Learned Body I say, will never be the less *regarded* and *respected* by any Man of Learning for being only *such as they are*, from the 49th of *Henry* III. 'Tis no such *Prescription* to a *Mushroom Pedigree*; and a matter of four or five hundred Years make a *long Night*: I say, *such as they are*; for that is more than his Friend *Fortescue* will allow, who makes them to consist but of about 300 Members, though he wrote near 200 years after, and about the same *time* that Old *Littleton*'s *Mouth*, which he so ridicules, open'd so much with that *Ung Dieu & Ung Roy*. But it is *high time* such Prevaricating Priests *Mouths* should be *timely* stopt, who will certainly come at last not only to teach us to have more than *one King*, but more than *one God*: And if he had ever visited Old *Littleton*'s *Tomb*, he would have found a *Fili Dei* too *coming out* of his *Mouth*, which is more than some Priests *believe*.

Kalend. p. 8.

King *Alured*'s Legislative form you had before, but here must add, *Hæc ego Aluredus sanctiones collegi & literis mandavi ex consulto sapientum.* Lamb. p. 22.

Arg. p. 4.

Vid. *Cotton*'s *Posth.* asserting all Dr. *Brady* ever said.

Pag. 3.

Fortesc. c. 18. fol. 40.

Notes, p. 8. Vid. *Coke* on *Littlet.* Pref.

We will admit then this King *Alfred* held his *Witenagemotes*, and that he Conven'd them (as the *Mirrour* says which Mr. *Johns.* cites, or would inferr) out of every Country, *fist assembler les Comitees*, caused the Counties to assemble: Though, by the way, the mistake may be easily made of *Comitees* for *Comites* or *Contes*; and then the Case would be much altered only by the leaving out a letter, and be more agreeable to the then *Constitution* to which these Men would so insignificantly *prescribe*. For plain it is from all Antiquity, though they labour to obscure it, and that from their own selves and Concessions too, That their *Folk-motes* were of another sort of make than their *Witenagemotes*; and that the *former* had no resemblance to our *Parliament*, though the *latter* might have some, says Sir *H. Spelman*, and that the *one* was *Anniversary of course*, and the *other* summoned *only* at the *King*'s *Pleasure*. Now this is *difference* enough, I think. And what does this facetious Fellow do with this *difference*? Why, where he can't come up to Sir *H. Spelman*, Sir *H. Spelman* must come down to him; and though it be the *best* and *most learned Glossary* (as he says) that was ever writ, we find, but two Pages further, the *learned Knight* and *hot-headed Priest* are all at variance again, and there the *unlearned Kalends* must prevail over the more *learned Glossary*, and the *learned Knight* is proudly reproach'd by the *presumptuous Priest*, for *distinguishing between a* Witenagemote *and a* Folk-mote, *seeing they were both made up of* Wites: That *Risum teneatis*— is indeed the hardest Task here. That some Men are *wise*, and some *otherwise*, is certain; and so there is some *difference*, I hope, 'twixt *Spelman* and *Johnson*, whatever there be between the *Witena* and *Folk-mote*.

Kalend. p. 9.

Ego Æthelstanus Rex ex prudenti Ulfhelmi Archiepiscopi, aliorumque Episcoporum meorum Consilio. Leg. *Æthel.* Lamb. 45, 46.

J—*n*'s *Kalends*, p. 37. Sir *H. Spel.* ibid. And *Kalends*, p. 31, 32, 33, 34, 35, 36, 37, 38.

Pag. 38.

If this piece of Sacerdotal Conceit will so far play the fool, as to make *distinctions* where there is no *difference*, and no *difference* where there is much *distinction*, who can help it. A Man may fansie himself *wise*, when most *Wise Men* may think him *mad*, or otherwise, and he tells us of a Creature he knows *intimately* that *looks wise* and is *not*. For Instance, upon this very Point,

[a word that is never more a Jest than when he *makes Maxims*, and *puts Points*,] if *Samuel*, from his learned Lucubrations and Researches into ancient Records, should observe, That the *Commons* were *anciently* constituent and *essential* parts of the *Witenagemotes*, because the *Aldermanni* did of old Assemble in them: And that these *Aldermen* were certainly *Citizens* or *Burgesses* of Towns *Corporate*, the Observation might be as *pleasant* to some Waggs, as it might seem *verisimilar* to some Blockheads; but certainly no *learned Glossary*, no *Spelman*, would be such a *silly Interpreter*: He, and other Antiquarians would tell him, that the *Aldermanni* of the ancient *Saxons* were the King's *Comites*, his *Gereves*, his *Thegns* or *Thanes*, his *Councellors* or *Ministers*; and not *Alderman Hunt's*, and *Alderman Johnson's*. And this the *Life* of King *Alfred* will tell him too, *That period of Time in which he says we have the clear Law and History how Parliaments stood.* But with some Men, *Aldermen* may be *Aldermen* without *distinction*, things may be *clear* and * *dark* without *distinction*. But in the *dark* he is, and was when he had his *two Eyes*; and his *Proof* but *Conjecture*, though he *wave Conjecture, when all is done.* And after all, King *Alfred*, as King *Ina* did *before* him, and the *Confessor after* him, made only a Collection of Laws, establish'd their observance by the assistance of such *Wise* and *Great* Men as he assembled, and such the *Liberi* Men then only were: He did not make *Laws alone*, no more than *Jo—n* made his *Books alone*. But for any thing *that makes* for the *Co-ordinacy* of the *Commons* in the *Legislative*, for their being *part of an* English *Parliament in and before the days of King* Alfred, for the *Kings of* England *being anciently one of the* Three States; all these *Prerogative-men*, I'll engage, shall give him leave to make the best of it.

Vit. Alf. l. 2. Epilog. Kalend. p. 8.

* Ibid. p. 35.

Lamb. fol. 22. *In Actis Ina gentilis mei Offa Merciorum Regis vel Ethelberti ea collegi, reliqua omisit.* Præf.

That the *Folk-motes* had no share in the *Legislative*, is so plain, that the most learned Antiquaries themselves rely on, utterly deny it; for he says, Sir *Hen. Spelman made this mark of difference.* This *learned Knight* did thus *distinguish*, That a *Folk-mote made no Laws*. But it seems this *great Antiquary* was *misled*:—And now here is the *learnedest Glossary that ever was writ*, and that without exception, *not excepting* Mr. Somners, is baffled and confuted, only to make way for *Jo——n's Conjecture*, That the *Folk-motes* were so modest, that they would not call themselves *Witenagemotes*, yet were so. I must confess, I cannot *conjecture* so well at the *Modesty* of the *Old English Genius*, from which, whatever it was, Mr. *Jo——n* must very much degenerate, that has nothing but Impudence to support him: For would any Impudence but his presume to refute the Authority of him whom themselves confess the greatest Antiquarian, and of the *learnedest Glossary* that ever was writ, and prove *Folk-motes* to be *Witenagemotes*, where such Antiquarians so eminently *distinguish* them; and to *make* them to *make Laws*, where *they* distinguish them by *not making* them, and this upon the bare presumption, That the *Modesty* of the *Folk-motes* did so *remarkably shine* in their *Old English Genius*, that they could not *decently* call themselves *Wisemotes*. The *Conjecture*, I am sure, is not *wise*, whatever the *Motes* were: A *Wise Man* might as well conjecture, that it was the *Modesty* of Mr. *Jo——n* made him write these Books. If our Ancestors and *Old Constitution*, our *English Genius*, *prescrib'd* to *Dethroning* and *Advancing*, to *whistling* Kings *in* and *out*, I think they may be thought *bold* enough, whatever the *Modesty* of their *Genius* were, to have *ventur'd* to have call'd themselves a *Wise-Mote*, if they had thought themselves so; I am sure my *Conjecture* is as *wise* as his, and then the Authority as good: But I hate *folly* more than this Fellow does *Popery*, yet is partly made up of it. And if the old Popish Clergy were in at *Magna Charta*, I am sure he is out in it. He may prove the *Deposing Power* from *Popish* Practices, and from the *Pope's Bulls*; but I defie him to do it from *Magna Charta*, or any *Charta*, according to our *English* Laws and *Constitution*.

Arg. p. 34, 35.

Pag. 41.

Pag. 35.

Pag. 47.

Pag. 43, 44.

Kalends, p. 33, 34, 35, &c.

Vid. LL. Gul. LL. Edw. c. Spelm. p. 315. under *Gemotum.*

Kalend. p. 32.

But this *modest* Gentleman, of *much Conjecture*, but of no *gude Memory*, [while he so labours against the sence of the *learnedest* Antiquary, to make these *Folk-motes Law-makers*, whom the Antiquarians say *made no Laws*,] forgets what the very old Law says was the chiefest business that Conven'd these Annual *Folk-motes*, and what this very learned Antiquary says also, (*viz.*) *To swear Fealty and Fidelity to their Kings*; *To swear to serve him faithfully*; *To defend his Rights against all* Foreigners *and* Strangers: *Jurantur Laici omnes coram Episcopis in mutuum fœdus; in fidelitatem Regis, & in Jura Regni conservanda.* Now I would willingly know whether [from these *Oaths*, administred and taken in those *Folk-motes*, that look'd more like the *King's Court-Barons* or *Leets*, than Courts of *Parliament*, and wherein the Bishops seemed to officiate as the King's Stewards] any thing can be gathered that does *prescribe* to *Dethroning*, *Abrogating*, *praying in Foreign Aid*, or *whistling* Kings In and Out. But whatever his Hypotheses are, 'tis time almost to have done with *Falshood*, *Treachery*, *Treason*, and I was never more willing to wash my hands

hands of him; but he has thrown so much Dirt upon our Regal Government, that still somewhat will *stick* to a man's fingers. *Kalend.* p. 34, 35.

In one Page he dogmatically lays down, [and that *without Doubt*,] That these *Folk-motes made Laws*, and strenuously proves it upon the place, because *the contrary is not to be supposed.* But I could *suppose* too, that the *learned Bishop* was no more out in *his Point*, than the *learned Antiquary* is in *his*, when he gave it out so long since, as he *supposed*, That this *Note-maker* and *Argument-maker* was a *Mad-man.* For as this Dogmatist proves his *without Doubt*, in the same Page with the *not to be Supposed*; so in the next Page he is *doubting* again, and for a good Reason, because in these Researches of Antiquity *he is forc'd to go in the dark*, and feel out his way. Now I must confess, as *mad* as the Bishop makes him, at which he is so *mad*, or as *mad* as he makes himself, to do him Justice, here is a little *lucid Interval*: but it does not last long, for in the very next lines he is proving, *as he goes in the dark*, That it is *as clear as the Sun*, that the *Folk-motes* made all the *Laws* we ever had. *Notes*, p. 94. *Kalend.* p. 35. Pag. *ibid.*

In Dock, Out Nettle, as much as it seems Childrens Play, is a Med'cine of Mr. *Jo——n*'s for our *Brainford* Kings, or to cure us of any *Kings Evil* whatsoever. But *Hellebore* is a good Herb too, and would suit with some Peoples *Constitutions* better than his *Maxims* do with that of our Government.

Now this *dark Point*, That the *Folk-mote* made *all* our *Laws*, though our Antiquarians say they made *none*, is thus *clear'd*; and that is from the *Coronation-Oath*, where it is put to the King; *Concedis Justas Leges & Consuetudines esse tenendas*, &c. *quas Vulgus elegerit*, which the *Folk shall Chuse*, or, as he renders it, *of the Folks Chusing*: Which Interpretation, I grant him, *is not worth one farthing*: And no more is his *Direct Proof* he would *Indirectly* fetch from it; for the very *Acts* of these ancient Councils do declare what is meant by them in the words *Populus* and *Vulgus*; and that *Populus* then was taken for the *Nobiles Laici*, in contradistinction to the *Cleri*; and *Vulgus*, only for the Community or Body of Men that *then* met, and not for the *Commons* that meet *now*. For if they were the *Folk*, that, as he says, *made all the Laws*, then the *Lords* and *Nobles* had anciently nothing to do in the *Legislative*; directly contrary to the Proof of all Antiquity, and for which that *Honourable House*, I hope, will not thank him *now*. For the *Lords*, I take it, *chuse Laws*, as well as other *Folk*; though I think, properly speaking, according to *Law* and our *Constitution*, *neither* do more than *Chuse Bills*, which the *King* makes *Laws*. 'Tis in all or most of our *Bills*, (as *course stuff* as he makes them) that the *Commons* Pray, *Petition*, *Beg*, *Beseech* the *King's Majesty* that he would make them *Laws*: And he may be told, without Banter, Such *Beggars* among our *wealthy Commons* may be *Chusers* too, and that, because they are no *common Beggars*. Pag. 36. Pag. 35. *Arg.* p. 6.

And here, I hope, I have shewn him how the Matter stands, how the *Thing* is; for he tells us, he is *govern'd* by *Things*, and not by *Words*; though in his Argument of *Vulgus*, and in his very next Page, he leaves the *Thing*, and *sticks* and *quibbles* with the *Word*. But it matters not much what he *says* or *unsays*; for but *two* or *three* Pages before, we have him *saying*, that he knew not a *word* of the *matter*, and downrightly tells us, he *does not* know *readily* what this Yearly *Folk-mote* is; and here he had better have *stuck*.

Kalend. p. 34, 35, 36.

Edmundus Rex frequentem Londini tam Ecclesiasticorum quam Laicorum catum celebravit cui interfuerunt Oda & Wulstanus præsul plerique alij Episcopi. Leg. Edm. Reg. Pag. 31.

To sum up this *Argument* and *Point*, which I should be sorry to see so fillily set forth, as those of our Adversaries: 'Tis *ex Confesso*, by their own Consent and Assent, against the sence of our learned Antiquarians and their *Glossaries*, That the *Witena's* and *Folk-motes* were the *same*, and that the *Folkmote* made Laws, as well as the *Witena*. Well, then it *sticks*, whether Mr. *Jo—n*'s *sence* be better than their *sence*; and there let it *stick*.

'Tis plain, The general Style of all the old *Saxon* Laws, as may be seen in Mr. *Lambert*'s Book of them, and in the *Saxon* Annals, that the *Bishops* and *Nobles*, *Lords Spiritual* and *Lay*, were only then Conven'd about making of Laws. And the words *Populus* and *Liberi Homines*, [which seems to exclude the *Commonalty*, who then were even *Vassals* to the *Lords*] which are found in some Records, and by these sort of Writers wrested and *warp'd* for their purpose, were in those days *only* understood of the *Nobility*, or such *Wise* and *Great Men*, as the *King*, of his own Grace, should Call together. And this is all that does appear to me, after the most Impartial Examinations of the Writers of both Parties; and here I shall *stick*, when this *Arch-Priest sticks at nothing*.

Ego Edm. Rex à sapientissimis Regni me requisitus esse. Lamb. p. 58.

Leges quas Edgarus Rex frequenti Senatu sancivit, p. 62.

Porro autem has populo quas servet proponimus Leges. Leg. Human. *atque Polit. Edgar.* And all his *Canons* and *Constitutions* run in the Royal style, —— *Decernus*, &c.

Besides

Besides the Style of those ancient *Laws*, their *History* tells us, and particularly of this King *Alfred*'s Reign, *The period of Time in which*, he says, *we have clear Law and History*, That he *collected* and *made* the *Laws*, or a Body of them, out of what *Ina*, *Offa*, *Ethelbert*, his Predecessors of the *Heptarchy*, had gathered together before; That he order'd such to be observ'd as he thought fit, such to be laid aside as he thought fit, and then shew'd them to his *Wites*, for their Approbation. But as *clear* as the *Law* and *History stands*, how *Parliaments* in his days *stood*; 'tis certain, in that Reign, he must *tread* upon Ruines, and the Ruines of the *Monarchy*; and but a bad period of Time, when all in Arms, to shew how the *Laws* stood. For, as our History tells us, The Conquering *Danes* were come over in such Numbers, that they had left the *King*, of his great Monarchy, but three Counties; and though beaten by him, continually returned and recruited, and with whom he had continual Conflicts. The *Laws* and *Histories* of those that came after him, *Edward the Elder*, *Athelstan*, *Edwin*, *Edmund*, *Edgar*, *Ethelred*, *Canutus*, and his two *Danish* Successors, *Harold* and *Hardikanute*, express their Institution to be by their *Kings*, with his *Wisemen* and *Noblemen*: The Laws *only* assembled at *Oxford*, to determine *Harold*'s Right, and sent *afterward* for *Hardikanute*, who should have succeeded *before* him.

Kalend. p. 8.
Leges Alured. ut supra.
Lamb. fol. 22.
Kalend. p. 35.
Leg. *Ethelred.* Reg. *Sapientum Concilium*; ex *Sapientum suorum Consilio*; *Angliæ Sapientes & Walliæ Consiliarij. Consult. de Mon.*
Leg. *Canut. Sapientum Consilio.*

All our ancient and modern Histories agree and affirm, That after these, *Edward the Confessor* made his Collection out of the *Saxon* Laws, and those of King *Ina* and the *Heptarchy*, and call'd them *his Laws*, after his *own* Name. Old *Stow*'s words are, (who writes from *Ingulphus*, who liv'd in his Reign,) *He was the chief Author and Cause that the Law which we call the* Common-Law *was first brought up, gathering it out of the Laws and Ordinances of four Nations*, (*viz.*) of the *Merci*, *West-Saxons*, *Danes*, and *Northumbers*; and has here also a most *Legislative* sort of expression, That *this King, of his own* Free-will, *released the Tribute of Forty thousand Pound*, call'd *Danegelt*. The *Chronicles* of others say much to the same purpose, That he made from out of those four Nations, of the Laws, one Body certain, selecting the best, wrote them in Latin, which is, in a sort, the Fountain of those which to this day we term the *Common Laws*, though the Forms of Pleading and Process therein were afterwards brought in by the *Conqueror*.

Vid. *Lambert* of *Saxon Laws.*
Vid. *Stow's Reg. Confes.*

And here, I think, we are come to another *Period* of *Time*, in which we may *more clearly* see who were the *Law-makers*, and where lay the *Legislative*. For 'tis plain, had *English-men*, *Wites* or *Nobles*, had the management of making *Laws* in those Reigns, much more *common English Folk*, we had never been made so much *French* before the Conquest, and so entirely *French* by it: Mr. *Johnson*'s *old English Genius* of the *Witena* or *Folkmote* must have used their *Negatives*; and if *Legislators*, were sordid Betrayers of their Liberties; and if *Wites*, no way fit to be recorded in his *Journals de Sçavans*. For,

Kalend. p. 35.

By what I find in old *Stow*, had our old *English* Ancestors been able to *whistle in* their *Kings* so easily, and to *whistle* them *out* again, this good *Edward the Confessor* ought to have gone back by the Way that he came, and by the *Bridge* that this *Fo——n*, the Pontifex of our State, has laid for the *Ingress* and *Egress* of our *English Monarchs*: For as much *English* as this St. *Edward* was who restor'd that *English Blood*, he was, by his long Education there, [up to near forty years] so Naturaliz'd into *France*, that it made *England* so too, not long after; and who was just like [what some of our *English Slips*, now transplanted, prove, who, in some *series* of years, forget their *Mothers Milk* and their *Mother-Tongue*,] *Mongrel English*, like those of *French-Bretagne*. And this was our *Blessed Condition*, even in the days of that *Blessed Saint*; for setting aside his *Donation* of the *English* Crown to Duke *William* the *Norman*, the highest *Point* of *Legislative*, and what I believe, from the Old *English Genius*, neither the *Folk-motes* nor *Witenagemotes* would ever have concurred with him in; *He* (according to the words of my *Old* Author, who wrote from an *Older*) *being brought up in* Normandy, *and continuing there so long, was in a manner become* French, *bringing and drawing from thence many whom he promoted above* measure. *Then began the whole Land to leave off the* English *Rites, and in many things to imitate the Manners of the* French. *All the Noblemen took it to be a great point of Gentry to speak* French, *to make their Charters and Deeds after the manner of the* French, *and to be asham'd of their own Custom and Use.* Wites *or no* Wites, we see it was then *Regis ad Exemplum*, and so almost ever since; for *Folk are but Folk*: And here we have a sort of *Conquest* of the *Confessor* Three and twenty Years before the coming of the *Conqueror*.

Arg. p. 43.
Stow in Edw. the Confes.

And

And now we are come to a *Period* of *Time* to which, one would think, these *Monarch-makers* should never care to *prescribe*; but *prescribe* they will, right or wrong, though it be to the Precedents that made us Absolute Slaves to an Arbitrary and Forcign *Yoke*; to a *de facto* Prince, that by force of Arms, and a bloody Battel, made himself the *Conquering* Monarch of our *English* Liberties; and rather than want Arguments for **Abrogation**, *Conquest*, *Usurpation* and *Tyranny* shall truckle Under, to bring the Phantom of the *Power of the People* a Top: And if these Authors can't come up to the *Conqueror*, the *Conqueror* must come down to them. So that such Arguments are but Jest, their Authors can't believe themselves. Mr. *P——t*, as *well furnish'd* as he was with *Answers*, is *furnish'd* indeed with a Confidence to *answer* any thing, though never so *unanswerable*; and therefore well undertook to prove *William* I. *no Conqueror*, tho' so called by all Historians and Lawyers, all our Annals and Books of Law; though our ancient *Æra's*, Dates and *Epocha's* stand *à Conquestore*, *à Conquestu*, and several of our Reigns and Acts stand still so dated in the Statute-Book. So if *no Conquest* is to be allowed, *Sam. Jo—n's Pen-knife* must cut out most of our *Acts of Parliament*. But tho' we have from all History and Law their *Word*, and this *Jo——n's Name* and *Fact* for it, (for he both calls and makes him a *Conqueror*;) not to take this *Argument-maker* to his *Word*, we will be guided by *Things*, and not *Words*, and examine a little how this *Conqueror* dealt with that *Fountain* of *Power* that he *found* in the *People*; how far he exercis'd his own *Legislative*, and stretch'd to his *Prerogative*; and see whether such Reigns are fit to *prescribe* to, for the Regulating of Ours.

Arg. p. 4.
2 *Edw.* 3.
1 *Ric.* 2.
2 *Hen.* 6.
39 *Hen.* 6.
1 *Edw* 4.
Co 3,4,5, &c.
1 *Ric.* 3.
Arg. p. 43.
the same style in *Hen* 7. *Hen.* 8. still *After the Conquest.*

And first let us see what our Annals say: The *Dooms-day Book*, in which *England* then too might read its *Doom*, is full of the fatal Consequences of this Foreign *Conquest*. I am bold to call it so, for so it was; we had not only the *Words*, but the *Things*, and the very *Thorns* of it we had then in our Sides; and I can't see through the Drudgery and Design these industrious Undertakers have, to struggle and strive against the stream of Antiquity and Authority, to prove Improbabilities. For our Liberties and Properties, tho' then never so much Invaded and *Conqu r'd*, have since, down from a matter of five or six hundred Years, been so well secured to us by *Magna Charta*, the *Charta Forest*, and so lately by the *Petition* of *Right*, a *Prescription* of *Threescore Years*, which of it self were enough to *prescribe* to the Possession of *Publick Rights* and *Privileges*, since it does to the *Property* in all *private Possessions*; that I hope there is no need of straining a Point, to fetch *Arguments* to prove our Privileges and Liberties, from a period of Time in which we were a *Conquer'd People*, and lay at Mercy. 'Tis like our Divines Over-doing of their *Arguments* in *Theology*, when they contest Antiqui y with the *Papist*, when they might as well do it with the *Pagans*, from whom those, 'tis plain, either out of Fear and Compulsion, or Custom and Conversation, borrow'd a great many of their Rites and Ceremonies, and which are still retain'd in several sorts of Religious Worship. The Practices of *Primitive Christians*, call them by what sort of Name you please, were they now to be *prescrib'd* to, I am satisfy'd both from *Reason* and *History*, would go a great way, [and for which the Papists use it] to spoil our *Reformation*; which is nevertheless to be regarded, because it looks *new*. 'Tis Time that must reform Abuses, by enlightning our Understanding; and Reformation in Religion, no more than *Rome*, [that thinks her self the Mistress of it] will never be *finish'd* in a Day. Near Two Hundred Years we *prescribe* to the Affairs and State of our *Church* as they now stand; and the fourth part of such a Prescription, had we no older Acts and Records, is enough for the settling those of the *State*. So that we need none of these Author's *prescribing* back to King *Alfred's Periods*, the *Folkmotes*, and the *Dooms-day Books*; for I am sure, those *rueful Epocha's* will undoe us and our *Constitution*. When we will assert our *Liberties*, I am satisfied, we must not have recourse to those days of *Arbitrary Powers*; but rather let those *Years* of *Darkness*, of *Captivity*, and *Conquest*, be blotted out of our Annals and Chronology.

The Laws are call'd *Decreta qua Gulielmus Rex Anglorum cum principibus suis constituit post* Conquisitionem *Anglia*. Lamb. p. 136.

They run in the style, *Præcipio, prohibeo*. p. 137.

It was not till his fourth year of *Conquest* that he call'd his Barons or Nobles, his Wise or Learned, with the Twelve of a County, to examine the Laws of *Edward the Confessor*; for he cull'd the *Men* as he cull'd the *Laws*. p. 138.

Per præceptum Regis. Chron. *Lichfield.*

Leges quas concessit Rex Gul. post terram subactam *apres le* Conquest de la Terre, *in the Original* French.

Arg. p. 7.

The *Magna Charta* of King *William* I. was never made in kindness to the old *English* he *conquer'd*, nor according to their *Genius*, if we will but believe Mr. *Jo——n* himself: It was made to secure indeed the *No Rights* and Privileges of those *Normans* that had ravish'd and run away with our *Old England's* Liberties and Properties; and those *Witenagemotes* he got together were certainly none of the wise and brave *English Genius*; none of the Race of those Heroick Wives, he tells us, were

Kalend. p. 35.

Arg. p. 23. were to cut the Throats of *Dutch Lords*, as they did once of the *Lord Danes*; for here then they must have *cut their own Throats*, and so were *Mad-men* instead of *Wise*: For this *William*'s *Witenagemotes* were those that made a Present of the Old *English* and *Saxon* Lands to his New-comers the *Normans*, to the long List and Catalogues of *Monsieur's*, with their Families, that we find at large in Mr. *Stow*'s Annals, and more dismally recorded in every County, in that *Dooms-day Book*, from whence these Goose-quill Sophisters would still deduce our *Deliverance*; but such an one as certainly did not suit with the Old *English* Genius, and most like Mr. *Jo*——*n*'s *Deliverance*, a Downright *Down-stair Deliverance*.

I would willingly ask these preposterous Contenders for *Liberty*, whether our *English* or *Saxon Witenagemotes* may well be suppos'd to have introduc'd among us the *French Tenures*, the *French Laws*, and their *French* way of *Pleading*. 'Tis evident, these *Witena's* could be no other than *Normans*, *French* Wise Men, and *French* Great Men, made out of the Ruines of the *English*; and if the Old *English* Genius should resume its ancient *Rites*, what mad work would an *Act of Resumption* make amongst our most ancient Families that came in with the *Conquest*, and have no other Title to their Estates but the *Conqueror*'s Donation.

Not only Mr. *Jo*——*n*'s Abbot of St. *Albans*, and those of *Ely*, but all the Country look'd on them as *Conquerors*, and knock'd them on the head: Against which, *William* made that special Law, for the Fining of the Hundred, if the murtherer was not found, and the Lord insufficient. Our Old Annals, as well as Modern, make out what is here asserted, beyond Controversie, though not Cavil, if the Writers that were coæval with the *Conqueror* can be better Judges of what was *Conquest*, and what not, than a *P*——*t* or a *Jo*——*n*, that come and *Unconquer* us again Seven Hundred Years after, and that only to *conquer* us more *Down stairs*, to be at the Mercy of the Multitude, and to be *conquer'd* by our selves, more than by the *Normans*.

Post Conquisitionem qui relicti fuerunt de Anglicis subactis exosam Normannorum Gentem in memoribus jugulabant, in quorum ultione in Anglicos desævirent, hac tamen sic omnino desisterent. Præstat *Twisden ad Leg. Gulielm.* & *Dialog. Scaccar.* he cites for it. *Vid.* Car. Reg. *l.* 53.

Ingulph, that liv'd in the days of *Edward* that *Conquering Confessor*, (as I may justly call him) who *fitted* and *prepar'd* the Nation to receive the *French* Yoke that *William* the *Norman*, immediately after his decease, came to put about our Necks, as *Stow*, (who had it from this *Ingulph*, gives a good Account of, and which just before I have *verbatim* given.) This *Ingulph*, whose Father was an Officer in *Edward*'s Court, and himself sent over into *Normandy*, where he became Secretary to the *Conqueror*, one would think he should tell us best what a sort of *Conquest* it was. [It was such a *Secretary* indeed as ought rather to be made an *Example*, because he sold and sacrific'd, though an *English-man*, his Country's Interest to his own; but instead of being made an *Example*, we know the *Conqueror* made him *Abbot* of *Croyland*,] and he gives us this Account, *That by Hard-Usage the* Conqueror *humbled the* English, *gave the Earldoms, Baronies, Bishopricks, Prelacies of the whole Nation to his* Normans, *and scarce permitted any* English-man *to enjoy any Place of Honour, Profit, or Power.*

History of Croyland.

Old *Eadmerus*, that Antiquated Monk of *Canterbury*, coæval with Mr. *Jo*——'s Abbot of St. *Alban's*, tells us what a sort of Legislator we had in the *Conqueror*, and what Influence the *Witenagemotes* had then upon the *Legislative Power*; *That* William, *designing to establish in* England *those Usages and Laws which his Ancestors and he had observ'd in* Normandy; *made such Persons Bishops, Abbots, his Chief and Principal Men through the whole Nation, as would not be guilty of any Reluctancy and Disobedience to them, knowing by whom and to what they were raised: so that all Divine and Humane things he order'd at his Pleasure.* And the Laws that *Ingulph* tells us of King *Edward*'s, that the *Conqueror* order'd him to get together, and would have to be observ'd, were such as only serv'd to assert his ill-gotten Power, and not to limit it for the benefit of the Natives.

Hist. Norm. fol. 6. n. 10, 20, 30.

Sir Roger Twisden, out of the Old *Dialog. de Scac.* says, *Spes omnis Terrarum & fundorum precluſa est magnum namque reputabant frui vita beneficio; Communis indigenarum Querimonia ut ad Alienigenas transire cogerentur.* And his following Excuse of it with the Family of the *Sherburn's*, and the few others, is but a lame Apology.

Vid. Lib. *St. Alban. Stow's Annals.*

I desire no better *Argument*, That the Old *Genius* of the Nation did look upon themselves then as a *Conquer'd People*, than what this *Argument-maker* gives us in the *Noble Genius* of his Heroick Abbot of St. *Alban's*, as it stands in *Stow*, from whom he borrow'd it, but after the manner that these

theſe Plagiaries do, in their diſingenuous dealings with the Authors from whom they ſteal, take juſt as much as will ſeemingly countenance their Notions, and omitting all that will make for their Adverſaries: Though, as Mr. *Jo*—— *n* repreſents it, the *felling of the Trees*, to obſtruct his Paſſage; the *telling him*, as he does King *William*, That he had no *buſineſs* there, and if all had done the like, the *Conqueror* had never come thither, does *undo*, I think, all that himſelf, and all that his Friend Mr. *P*——*t* has done to make it *no Conqueſt*. *Arg.* p. 43. *Notes*, p. 90.

Sam. Jo—*n*'s beloved *Mirrour* makes our Lands and Inheritances the Gift of our Conquering *Kings*; and *Bacon* (not the *Prerogative-man*, but their *Commonwealth's-man*) ſays ſo too. But it matters not much what ſuch Authors *do* or *ſay*, for they *unſay* and *undo* of themſelves what ever they have *done* or *ſaid*; and 'tis as pretty to obſerve, That when Mr. *P*——*t* himſelf produces the Year-Book to prove *William* I. had his *Parliament*, the *ſame* Record calls him the *Conqueror*: Their Arguments are as curs'd as the Cow that gives a little Milk, and then kicks down the Bucket. *Mirrour* c. 1. *Bacon of Govern.* p. 50, 51, 202. 21 *Edw.* 3. fol. 60. *In temps* Gul. Conqueror *a ſoni Parlement.*

But God be praiſed, at this time of day, we are *Engliſh-men* again, and not *Normans*: Our *old Genius* is return'd, and deſires Mr. *Jo*——*n*'s would not let us *preſcribe* again to our *old Chains*: Our *Freemen* and *Freeholders* now, as well as our *Parliament*, or *Commune Concilium*, are otherguess Things than the *Liberi Homines* of the *Conqueror*, and the *Witenagemotes* or *Common-Councils* that he Called, and that only to affirm his *Conqueſt*, and enſlave us by *Law*, as he had done before by *Arms*: They were the *Diſpoſers* of his *Alms* indeed, and actually diſtributed his *Donations*, to the *beggaring* all the Old *Engliſh*, and *enriching* his New *Norman* Followers; Earl *Moreton*'s 793 Manors, Earl *Britaign*'s 442 Manors, and Biſhop *Geofry*'s 280 Manors, make 1515 Manors; a good parcel of *Engliſh* Land diſpos'd of to *French* Troopers, or *French Beggars*, that, if I miſtake not, were *Chuſers* too. But ſtill, forſooth, this Rape upon our Lands and Liberties muſt be deem'd (to the ſcandal of our *Old Engliſh Genius*) to be done and committed by our ſelves, upon our ſelves, and by the force of their own Legiſlative, to make our Deſtruction more valid; and *Old England* muſt be made a *Felo de ſe*, and *Raviſher* of its *own Rights*, to furniſh Arguments for theſe Pimps and Pandors of a *Popular Power* to invade the *Right* of the *King* and the *Crown*. *Arg.* p. 8.

The *Coronation-Oath* of this *William*, that the old Archbiſhops then adminiſtred, was to all intent and purpoſe as good an *Oath*, if not the ſame that Mr. *Jo*——*n* ſays has been taken ever ſince: but, 'tis plain, it booted but little; and that preſumptive *Liberty* which loſt *England* ſeem'd to flatter it ſelf with, was ſoon vaniſh'd and reſolv'd into the Power of their *Conquerors*. Mr. *P*——*t* and Mr. *Jo*——*n* may call our old Grand-ſires then the *Liberi Homines*, if they pleaſe: But I ſhall deſire to know which of the Extractions it is they would *preſcribe* to, the *old Engliſh Blood*, or the *French*? The *French* were, I confeſs, *Liberi* indeed; very *liberal* of the *Engliſh* Lands, and very *free* to do what they pleas'd: But I ſhall beg leave to *preſcribe* to none of their *Freedom*; and do alſo *deſire* and *humbly beſeech* both *Honourable Houſes*, upon this Occaſion, not to ſuffer theſe ſort of Men to have the Aſcendant, in their *falſe*, *treacherous Hypotheſes*, *Arguments* or *Preſcriptions*, which, like *Snakes in the graſs*, while they *hiſs* at the *Crown*, *ſting* us in the *heel*; and under the Notions of *Liberty*, *enſlave* us; who make us *Liberi Homines* with a witneſs, by the *Witenagemotes* of the *Conqueror*; and *preſcribe* to *Conqueſt* upon *Record*, while they are *burning* of it in a *Pamphlet*. Vid. *Stow's Annals.*

The *Charta Conquiſitoris* is confirm'd by this Proclamation-Law; *Willielmus D. G. omnibus ad quos ſcriptum hoc perveniat, ſalutem. Mando & præcipio per totam Angliam cuſtodiri.*

Arg. p. 6.

The poor *Engliſh-man*, when Appeal'd by the *French-man*, had no other way to purge himſelf but, *Aut Judicio ferri aut Duello*; but the Privileged *Frank* could come off upon his Oath, *Volo tunc Francigenam purgare ſe Sacramento*. Leg. 62.

A true *Engliſh-man* ſhould no more love or like the *Norman Folk-motes*, than the *Norman Hunter*; for as the *Norman* made the *Folk-motes*, ſo the *Folk-motes* made the *Norman*. For the Gift that this *Conqueror* gave his *French Nimrod*, I refer Mr. *P*——*t* and Mr. *Jo*——*n* to the old Monkiſh Rhymes recorded in Mr. *Stow*; a little larger *Donation* than what the *two Verſes* beſtowed that he ſent the Earl of *Flanders*, for helping him to the *Crown*. *Annals*, p. 3.

There is no doubt, maugre all the Miſeries that attended a *Conqueſt*, and the Deſolation that follow'd it, we had ſome brave *Engliſh* Spirits, whoſe *Genius* would not ſtoop to the ſordid Lure of *ſeeming Liberty* with which their very *Conquerors* ſometimes would ſeem to careſs them; which probably has given occaſion to theſe *Record-mongers*, in their Reſearches, ſometimes to light on ſome Favour he ſhow'd ſuch *Engliſh*, as ſuggeſted to the *Norman* that they had not borne Arms againſt him; and this has handed down the Story of *Edwin* of *Sherborn*, and magnify'd the Vid. *Præfat. Twiſden. ad Leges Anglic.*

Conqueror's Magna Charta; the *Londoners Charter* he gave their Bishop, and some other Grants and Indulgences; and celebrated the Modesty and Lenity of our Subduers, as if they had submitted their *Swords* to the *Power* of the *Legislative*, when indeed it was only to the *Norman Estieront*, and the *Laws* of their own *chusing*.

The *old Norman-gemote* was, in my judgment, whatever Mr. *P——t* or Mr. *Jo——n* may think, not much unlike the late *French new Chamber* of *Metz*, that gave the King more after the War, than he *conquer'd* in it. But still there were good *English-men*, though not of the *French-gemotes*, that stood upon their guards, besides the old Abbot of St. *Alban*'s, that call'd it a *Conquest*. [whatever Mr. *Jo——n*'s Friend or Mr. *P—t* would put upon us:] For the Monks of the Isle of *Ely* held out a seven years Siege, till they were almost starv'd, and then they Compounded for Themselves and their Revenues, and very Priest-like, betray'd and sacrific'd their fellow-sufferers, the Laity, [whom themselves, for their own sakes, had first incited to *Resist*] to the fury of the *Conqueror*, whom accordingly he *decimated*, imprisoning some, cutting off the Hands, and putting out the Eyes of others, and making these perfidious Priests and Monks, and their Abbots, to buy their Peace with 700 Mark, and *Gilbert de Clare*'s Interception to boot; which Summ they were forc'd to raise with the rifling of their Church and Altars; and then for paying of the *Groat* short, to be fined a *Thousand* Mark more. This may make a sort of *Constitution* which Mr. *Jo——n* or Mr. *P——t* may *prescribe* to; for my part, I shall not care to go so far back to fetch *Popery* and *Slavery*, they are such Relicks [as much as Mr. *J——n* loves them] that no honest and true *English-man* will like; I had rather ten thousand times take *contentedly* the state of the Nation as it stands, the *Powers* that are as they *are*, and that upon *content*.

Vid. *Stow.*

Arg. p. 44.

I desire also Mr. *J——n* would let his Friend Mr. *P——t* to understand, that his Abbot of St. *Alban*'s, in all probability, far'd no better than this Abbot of *Ely*; for though Mr. *Jo——n* favours his Cause so far, as only to tell us what that Abbot (whose *Memory he so loves*) told the Duke; yet he will do well to let him know too what the Duke told the Abbot, which was, *Quoth* William, *Is the Spirituality of* England *then of such Power? If I may live and enjoy what I have gotten, I will make their Power less; and especially I mind to begin with Thee.* And I think he was as good as his word; for as bold as the Abbot was at St. *Alban*'s, he was glad to take up his heels and troop to his Friends at *Ely*. And I hope this is a *Reply* that will not *furnish* Mr. *P——t* so easily with another *Reply* to prove we had then no *Conquest*: Altho' *Matt. Paris* says, when he Conquer'd *England*, *The little that was left he put under the yoke of perpetual Servitude.*

Arg. p. 43.

Pag. 4.

I have only this Story to add, out of old *Stow*, who takes too his Authority from the Writer coæval to the Reign, and the Secretary to the State:

Ingulph.

That when the *Power* of the *Lay-people* was *overthrown*, which by his *Practices*, of *putting the* English *upon all Dangers*, he brought about, he then *establish'd and ordain'd*, by his *Commune Concilium*, by his *Witena*, or *Folk-mote*, (be it by what Mr. *P——t* or Mr. *Jo——n* please,) That no *Clerk* of the *English* Nation should be suffer'd to come to any *Promotion*. " He abhorr'd much " the Gentleness of *Knouth*, which sometime had been King of *England*, for that he Restor'd " them whom he had *Overcome*, unto all their Promotions and Honours, whereby it came to pass, " that when he was dead, the Inhabitants did easily expulse the Strangers, and challenge " [with good reason, I think] *their old Right and Title*: But the *Conqueror* and his *Witena's* " were wiser than so; and so he says, according to Secretary *Ingulph*, King *William depos'd* " them, and *distributed* the *Earldoms*, *Baronies*, *Bishopricks* and *Dignities* to his *Normans*. Only " one *English Hero* and *Genius*, I think, he says we had more, the Heroick *Hereward*, who " hearing in *Flanders* that the Realm was subdued by Strangers, and that old *Leofrike*'s, his " deceased Father's Inheritance, was given to a *Norman*, and that the old Widow, his Mother, " was injur'd and Ejected out of her Copyhold or Jointure, [Mr. *Jo——n* or Mr. *P——t* may " call it what they please, *Words* and *Things* weigh alike with them] bravely came over, " call'd together his Kindred, and made up a Company, and chac'd the Foreigner and Disseisor " out of his Father's Inheritance. The *Deeds* and *Charters* of the *English* (this Author says) " which to the time of King *Edward* had been firm, by these *Abhorrers* of our Customs were " all Condemn'd; and from the Authority of an ancient Writer, proves, that the Churches " were not Sanctuaries for the Persons or Substance of the poor *English*, but that the Monasteries " were search'd, and the Abbeys, for the Monies and Goods they had lodg'd and laid up there, " and those very Places of Refuge bereaved throughout *England* of their Gold and Silver,

Stow's Annals, p. 110.

Richard of Wendover.

" sparing

" ſparing neither Chalice nor Shrine, nor the Biſhopricks nor Abbeys themſelves which he " brought under *Knight-Service*, which had been free before from all Secular Bondage.

Now certainly no *Engliſh Wites*, or *Liberi Homines*, were ever conſenting to this folly and madneſs of ſubjecting themſelves to ſo much miſerable Servitude: And if it muſt not be call'd *Conqueſt*, there is none can be admitted to be ſo, that does not make a *Mexico-Conqueſt*, a *Maſſacre*; and therefore Mr. *P—t* may *Anſwer* and *Reply* as long as he pleaſes, and *Sam. Fo—n ſay* and *unſay* as much as he pleaſes, *Things* will be *Things*, when *Words* are but *Words*. Our old Tenures and Services *preſcribe* us to be Villains and Slaves, as much as the *Romans*, before *Manumiſſion*, even in his old Friend *Forteſcue*'s days, as well as long ſince, and the Form of *Manumitting* much the ſame: Now to *preſcribe* to this, becauſe Statuted and Ordain'd by our *Folk-motes* and *Witena's*, would, from our Redemption with the *Iſraelites*, return us unto *Egypt*. *Kalend.* p. 31. Vid. *Britton*, *Bract.* *Forteſc.* *Coke.*

It is manifeſt, and therefore may be boldly affirm'd, that the admitting *William* I. for a *Conqueror*, as both Law and Hiſtory call him, has not half the ill Conſequences as the *preſcribing* to the *Conſtitutions* and Government of that Time, in which, beyond diſpute, there reign'd a Deſpotick Power, and Abſolute Tyranny: He is the beſt *Engliſh-man* that does not touch on its Vindication, which muſt be *Cavil*; nor preſcribe to its Conſtitution, which muſt be *Slavery*.

Upon the whole, ſo far, I think, it appears plain, That our ancient *Conſtitutions*, before the *Conqueſt* of the *Norman*, conſiſted of no leſs than three preceding *Conqueſts*, that of the *Roman*, the *Saxon*, and the *Dane*; and that accordingly to the nature of *Conqueſts*, the *Conquerors* reign'd Deſpotically, without any Concurrence of the *Three Eſtates* in the *Legiſlative*, and without the *Cheſt-opening* Power of the *Three Keys* of *Barking*: That the *French Conqueror* crown'd our Misfortunes and Miſery with his finiſhing ſtroke, and was ſuch a Law-giver, who, bating but a few of King *Edward*'s, that he got *Ingulph* his Secretary to ſelect for his purpoſe, not only altered the *Subſtance* of our *Laws*, but the very *Forms* of them, and the old *Engliſh* or *Saxon* in which they were deliver'd; and therefore our *Annals* truly tell us, *That the Laws, Deeds, Charters that had ſtood firm to King* Edward's *time, and ſeal'd with the religious and ſacred Sanctions of the pious Confeſſor: The Superſcriptions of the Faithful, with Croſſes of Gold, and other holy Seals*, theſe *Charters* and *Deeds* did the *Normans* all Condemn, and appointed them to be made a-new, and Seal'd after the *Norman* manner, with Prints of Wax, and *Four Witneſſes*. Now theſe Proceedings I take to be a ſort of National *Quo Warranto's* with a Witneſs, or *Four Witneſſes*. Nay, the very poor *Pædagogues*, and what we now call *Lilly's Charter*, muſt be chang'd too, and the very *School-Maſters*, as well as the *Lawyers* of *Weſtminſter*, were to leave their old *Engliſh*, and teach their Rules of Grammar, as well as the Forms of Pleading, in the *French* Tongue. *Arg.* p. 5. *Stow's Annals.*

I can't ſee what ſuch Authors can aim at, by palliating, againſt all Reaſon and Record, that old *Frank Conqueſt*; unleſs from the formidable Power of the preſent *French*, and their aim at *Univerſal Empire*, we may be the better fitted by it for a *new one*; and at the ſame time fanſie our ſelves *Liberi Homines*, when under the Tyranny too and Power of *France*.

Certainly the Enacting part of the *Legiſlative* was not then to be found among the *Commons* of Old *England*, or elſe the *brazen Engliſh Genius* (Mr. *Fo—n* ſuppoſes he ſo intimately knows) I muſt ſuppoſe was entirely loſt; not only the Sanction of the Law, but the whole *Legiſlative*, was as Abſolute in the *Conqueror*, as any of the late *Lauderdale* Law, or the *later Abſolute Power without Reſerve* could be ſuppoſed to be in our late *Kings*. Tho' this *Querpo* in *Politicks* may find that in Governments where the Civil Law obtains, (as in *Scotland* it does) there are a ſort of *ſcurvy Laws*, that make a Prince more *Legiſlative*, than Dr. *Brad——'s Scurvy Pedigree*, or Dr. *Hicks* or Dr. *Womack's Inſolent Expreſſions* (as he calls them) will allow; *Laws* that ſay literally, The *King's Edicts* are *Laws*; That the *Prince* is the only *Maker* and *Interpreter* of *Laws*, and that it is a Sin next to *Sacrilege* to *reſiſt his Edicts*. There is *Proclamation-Law* for him: Therefore, by his *gude* Leave, for he has no *gude* Knowledge in *Scotch Law*, I deſire he would let their *Laws* alone above all *Laws*: And, as I have ſhewn him, he had better have let our old *Engliſh Legiſlative* alone alſo, for ſomewhat of that ſays much the ſame thing; *If you are oppreſs'd in your Cauſe by the Rigor of the Law, have recourſe to the Higheſt Power: you muſt appeal to the King*. 'Tis he muſt *interpret* the *Laws*, becauſe he *makes* them, ſays * old *Bracton*. And *Britton*, two hundred years after, had the face to tell us, 'Tis the *King's Will* that his *Judgment* and *Juriſdiction be above all the Realm*. I deſire none of this old *Royal Prerogative* or *Legiſlative* to be practis'd now; *Kalend.* p. 35.

Quod principi placuit Legis vigorem obtinet. D. 1. 4. 1.

Imperator ſolus & conditor & Interpres Legis, C. 1. 14. 12.

Sacrilegii inſtar eſt principis Reſcripto obviare, C. 1. 23. 5.

Si ſummo Jure urgeatur, ad Regem prævocato, Lamb. *Laws of* Edg. 1. 23. 5.

* *Domini Regis expectanda Interpretatio & Voluntas.* lib. 2. c. 16.

but I desire Mr. *Fo——n* to *leave off* his *Prating*, his *Scribling* and *Prescribing* to *Old Law*; for otherwise I will not *leave* him, nor cease to prove him, as well as he would the Bishop, to be a *Betrayer* of *England*, and a *publick Enemy* to our *English Liberties*, as they now stand, and by later Laws are establish'd. But this Man of *gude Memory*, though not of *sane Memory*, I perceive, will not be so easily *corrected*, nor leave off *prescribing* to our *Old Law*, though, upon examining it, it comes to be next a-kin to *Imperial Law*, and *Scotch Law*, or his *Lauderdale Law*, if he please; and therefore, for his *Cricket* and *Edinburgh* Story, I must tell him, he is such another *Edinburgh Priest*, who being bid by Old King *James*, upon his Preaching up of his Pulpit-Politicks, to leave off his Nonsence, or come down, replied, *In gude faith*, Jemmy, *I'se am nu above Thee, and shall not kum doun, nor leave my Nonsence.*

Notes, p. 94.

Notes, p. 104.

But it is time for me to have done with him, though he has not with the Nonsence and Absurdities, the Contradictions and Falshoods he has laid down, and with which he has *stuft* his Works, with which he *prescribes* to *Liberty*, from Times, Authority and Law that *enslave* us.

The *Conqueror*'s *Witenagemotes* are certainly no *wise ones* for our *Wites* or *Wise Men* now to *prescribe* to, but our *Mad-men* may: And when he finds the *Co-ordinacy* of the *Legislative*, the *King* one of the *Three Estates*, and the *Enacting* part *jointly* in the *Two Houses*, from the *Motes* in the Reign of the *Conqueror*, then he may *venture* (for *venturesome* he is) to find that none of the *English* Lands were allotted to the *Normans*, and *prove that* too from the *Dooms-Day Book*. But I'll venture to *prove* to him, by a very good Authority, (if there were *Commons* that sate in Parliament in the *Conqueror*'s time, [who certainly are equally Venerable, and as much the necessary and legal part of the *Constitution*, if they came not to it till *Henry* IIIds;] yet notwithstanding, *then* the *King* was not *jointly* reckon'd with them as *one* of the *Three Estates*, and consequently but *one* of the *Barking Keys*, and at best but the *Parson* to the Two *Churchwardens*,) and that is out of old *Verstegan*, a Writer of Antiquity, and the *same words* allowed and Recited to be Authentick by both Authors, that were Adversaries in the Dispute, which are, That the Duke *Convened* his Parliament or Assembly of *Three Estates*, which then *consisted* of the *Clergy*, *Nobility* and *Commons*. Now I think here the *King-Key* is left out; and the *Sanction* of the *Law*, the *Opening Power* or *Shutting Power* of the *Chest*, reserved to himself; and Chancellor *Fortescue*'s definition of the *Three Estates* according to our Old *English Constitution*, quite otherwise to that he 400 years after *laid down* in *Parliament*. And by what appears by our *Annals*, and the work that he made with the Chalices and Church-Plate, he reserved a Power too of *breaking open the Chest*, without using any *Key* at all. I hate such Regal Power; and hate more such *double-Knaves*, as under the Notion of *Liberty*, would *prescribe* to it. Let Dr. *Hicks* his Principles be what they will, he has Sence and Law on his side, when he says, *'Tis the Sovereign's Authority that gives Life and Soul to the dead Letter of the Law.* And 'tis not only Dr. *Hicks*'s *sence*, but Archbishop *Usher*'s *sence*, Bishop *Sanderson*'s *sence*, and the *sence* and *words* of the Judicious Mr. *Hooker*, who, I say, was called so, though he was no *Judge*, and who says (as before observed) *Laws take their force not from those that devise them, but from the Power that gives them the force of Laws.* Old Judge *Bracton* and Bishop *Britton* say the same, whatever Judge *Wallop*, or Judge *Tell-Clock*, Bishop *Fo——n* or Bishop *wou'd be*, say to the contrary; and so no *Doctrine* of the Year of *Jovian*, but of four or five hundred years standing, to which the *Doctrines* of an hundred *Julian's* must all bow and fall down.

Dr. *B——'s Answer* to *Anti-Norm.* p. 315.

Stow's Annals. Kalend. p. 7.

Arg. p. 4.

Ecclesiastical Polity.

The *true Legislative* is the *Sanction* of the *Law*, and that is only in the *Sovereign Power*, which can't be shar'd by the *People*, where they are not all *Sovereigns*; but to make them so, some Men make *Arguments*, and *much a-do*: And in a *Monarchy*, I hope, there may be *constituent Parts* in Government that have no share in the *Sovereignty*.

The *Joint-Legislative* of Mr *Fo——n*'s *Commons* does not appear, I think, in the Reign of *William Rufus*, the *Conqueror*'s Successor; for in most, if not in all the *Councils*, *Conventions*, *Assemblies*, *Motes* or *Parliaments* that he *called* or *made* to meet, (Mr. *Fo——n* may *call* them and *make* them what he please) there is no mention *made* even of the *Liberi Homines*, or the words *Populus* or *Vulgus*, that were used anciently and before that time, [though not to signifie what these Authors would insinuate. And now I thank Mr. *Foh——n* for one Maxim more, That we are to be guided by *Things*, and not *Words*. And how this Prince prey'd also, like his Predecessor, upon the Revenues of the Church and Clergy, is a *Thing* more clear from the Annals and Records of that Reign, than the Power of the *Populus* and *Vulgus* this Author would prescribe

Hunc morem habebant, ut quaque pessundarent, diriperent & totam terram per quam Rex ibat devastarent.

See also the Slavish Condition of the *English*, more at large described by *Eadmer*. lib. 4.

preſcribe to: ſo that this *Preſcribing Prieſt* muſt *preſcribe* himſelf *out of doors*, when he ſends us to the Times in which the *Church* was plunder'd, and the *State* beggar'd; and he does but odly contend, *pro Aris & Focis*, when he *preſcribes* to the Reigns in which the *Dooms-Day Book* and *Couvre Feu* made away with our *Eſtates*, and put out our *Fires*; and *Ranulphus* the Church-Robber to *Rufus*, as well at the Plunderers of *William the Conqueror*, made actual Sale of our Altars, and all that was ſacred. But Mr. *Jo——n*, I think, who is a ſort of *Sine Cure* Prieſt, does not much *care* what becomes of the *Church* or its *Revenues*, ſo long as the *State* takes care how to pay him his Penſion.

Non pauperem tenuitas, non opulentum Copia tuebatur. Malmsb. *de Regn.* l. 4.

In *moſt*, and I may ſay *all* the *Councils* of *Henry* I. the *Archbiſhops*, *Biſhops* and *Abbots*, the *Primates*, *Nobiles & Principes Regni*, are only nam'd by our old Hiſtorians that were coæval to the Times; to which if Mr. *Jo——n* will *preſcribe*, the *Joint-Enacting part* of *one* of his *Two Houſes* is entirely loſt, unleſs they *acted* before they had a *being*. He begins his Laws after the manner of the modern *French*, *Glorioſus Cæſar in Divinis Legibus*; and tells us, in his 32. *Nemo Dominum ſuum Judicet, vel eum cujus Ligius ſit*; and in his 72. That *Omnibus Francigenis Rex debet eſſe pro Cognatione & Advocato.*

Eadmer. Florence of Worceſter.

If this Author would *preſcribe* again to King *Stephen*'s Reign, we are like to run our ſelves back again into another *Conqueſt*; his Men of *Arms* made his *Laws*, *Confiſcations* were his *Taxes*, and his *Folk-mote* a *Council of War.*

'Tis plain, he was ſet up by no *Univerſal Conſent*, but by a * *Party*, by a *Faction*, and particularly, as one of our Hiſtorians ſtates it, by his old Friend and truſty *Roger*, the then Biſhop of *Salisbury*, *who partly by force of Reaſons*, but more by *Force than Reaſon*, procured the State to accept him for their *King*: And we know what was the Conſequence, and what theſe *Argument-makers* love to *preſcribe* to, a *Civil War*, and the effuſion of moſt of our old *Engliſh* Blood we had left *. The Biſhop of *Wincheſter*, his Brother, that had helpt to ſet him up, comes to *curſe* at laſt all that had adher'd to him, and in the ſame Author's words, *all* England *was full of trouble and noiſe of War, and ſet forth to Fire and Rapine.*

* *Malmsbury.*

* *Stow.*

Theſe are the old beloved Precedents, *Thrice Honourable* Sages and Senators, and moſt Auguſt *Repreſentatives*, ſuch Authors as theſe *preſcribe* to, and with the higheſt Impudence have Dedicated to your *Honours*, *the moſt Glorious part of our Limited Conſtitution*, and which has ſo often ſignaliz'd it ſelf, in the aſſerting, by ſo many ſeveral Acts, the *Regal* and *Hereditary Right* of our Imperial Crown of Old *England*, and the *Monarchy* of *Great Britain*. So that I muſt again, in the Prayer of our Adverſary, *humbly beſeech both Houſes to have a ſpecial care how they ſuffer this ſort of Men to have the Aſcendant*, who would make Old *England*'s *Crown* but another New *Poland Crown*, and a flouriſhing Kingdom (till by theſe Principles laid waſte) a meer *Akeldama*, a *Field of War*, and a *Field of Blood.*

Arg. p. 23.

Ibid. p. 6.

'Tis as plain, In *Henry* IId's Reign there is nothing to be found of the *Three Eſtates*, and the *King* to be *one* of the *Three*: ſo that 'tis as plain, here was then *one Third* of the *Cheſt-opening* Power wanting; and what our Author makes a *Feſt*, was ſo in *Good-earneſt*. For in the Great and Celebrated Council of *Clarendon* it appears, that the word **Populus** is us'd both by the Hiſtorians that write of it, and ſome Acts of the Council ſtill on Record, only in oppoſition to that of **Clerus** that accompanies it, and ſo both to denote only the *Spiritual Lords* or the *Temporal*. And this, doubtleſs, was the acceptation of thoſe words in the ſucceeding Reign of *Richard* I. who had not much to do with *Witenagemotes* or *Folk-motes*; the *Cruſado* and *Holy War*, with his other Foreign Expeditions, waſted his Ten Years Reign and Treaſure: And who had the *Cheſt-opening Power* in the following Reign of King *John*, our Hiſtories and his Laws will beſt inform us.

Ibid. p. 5.

By the way, I ſhall not take much notice of this King's Uſurpation upon the Right of his Nephew *Arthur*, no more than we laid any ſtrain or great ſtreſs upon the former Uſurpations of *William* II. and *Henry* I. upon their Eldeſt Brother, Duke *Robert*; or of Duke *Stephen*, upon the Empreſs *Maud*; becauſe they are of no weight with theſe Authors, though the Conſequences were no leſs than *bloody Wars*, and that, according to Mr. *Jo——n*, muſt be *bloody Work*, and to which, by that *Conſtitution* of *ours*, [but of *his* making] we muſt *preſcribe*. However, ſince *Preſcribing* comes to be ſo much in *faſhion*, as to be the very *Alamode* of our *Conſtitution*, it muſt be agreeable to the Notions of theſe *Argument-makers* to conſider the Sence of Antiquity upon this Subject; and that, I will promiſe Mr. *Jo——n* ſhall be done in its proper place, which will be in the very next, when we come to conſider his *Great Point*, of *Dethroning*, *Abrogating* and *Electing* by *Preſcription.*

'Tis

'Tis apparent from all our History and Record, there was no *Convention* of *Commons* met at the *Electing* of King *John*; and *Elected* he was indeed, and as ready to be *Abrogated* and *Dethron'd* by those *Lords* and *Prelates* that had *Elected* him. It was the *Lords* then that contended for their Liberties: And most of the *Taxations* of this *King*'s Reign, our Histories tell us, were *Fines* and *Confiscations* which the *King* had impos'd upon these *Barons*, and which occasion'd what was afterward call'd *the Barons Wars*. And now I give Mr. *Jo—n* leave to *prescribe* to the *Electing* of the *King*, the *Fining* of the *Barons*, or the *bloody Wars* that follow'd it, and tell me which of them, or whether any of them be very *agreeable* to *our Constitution*. I can't forbear adding here (though I would have reserv'd it for the next place) what the words of a modern Historian are upon this very *Point*, in the Case of this very *King*.

Vid. *Reign* and *Life* of King *John*.

King *John*, thinking the *Title* of *Arthur* but a Criticism in *State*, ascends the *Throne* as confidently as if he had no Competitor; only *Hubert* Archbishop of *Canterbury* made an Oration in his behalf, wherein seeking to do him a Courtesie, he did him indeed a Wrong; for waving *his Right* of **Succession**, he insisted wholly on *their Right* of **Election**: Whereof would follow, *That as they brought him* **In**, so they might *cast him* **Out**. So here was Mr. *Jo——n*'s *Draw-bridge* indeed by *Prescription*, and *whistling* of *Kings* **In** and **Out**. And when the Bishop was told of this Errour, [for *Errour*, it seems, it was then accounted] he answer'd and said, *He did it on purpose to make King* John *the more careful of his Government, in shewing him upon what unsure Grounds he stood*. But this Bishop *Johnson* of King *John*'s, that let him know the *Ground* too *would sink from under him*, was not so well liked, I think, even by his *Elected King*, who, as the same Historian observes, *highly resented this dangerous Doctrine*; but seeing it to serve his Turn for the present, *he took it not so ill, as knowing, when his Turn was once serv'd, he could afterward be his own Carver, and of what Title he pleas'd*. And now Mr. *Jo——n* may *prescribe* again to this sort of *Election*, if he *pleases*, and try which he will *most please* by it, the *King*, or the *People*.

This King *John*'s *Charter*, which was much the same with that of his Successor, *Henry* III. and got much after the same manner, was granted by the *King*, only in an Assembly of, and *per Consilium venerabilium Patrum & nobilium virorum*; and here is the old *Clerus* and *Populus*, only in larger words, and the very *Liberi Homines* here mention'd, who could be only *Tenants in Capite*, and *nothing like* what our Sage *Representatives* now are, had also little or nothing to do in the *advising* or *making* those *Laws* for our *Liberties*, which were still well gotten, whatever were the *Ways* and *Means*, the *Witena's*, or the *Men* and *Folks* that obtain'd and procur'd them.

Arg. p. 5. Mr. *Jo—n*'s *Paradox* of the *Parish-Chest* is just as *impudent* and *false* as the *Parallel* of it with the *Two Houses Joint-Enacting part* is ridiculous and impertinent; for if he *prescribes* to their *Joint-Legislative* before *Henry* IIIst's time, it is, without dispute, before there were *Two Houses*; for the soonest as some of our Historians admit the Form of the *High Court of Parliament* was instituted, and that the *Commons* were assembled by *Knights*, *Citizens*, and *Burgesses*, and sate in Two several Chambers or Houses, was in *Henry* IIIst's Reign, tho' greater Criticks and Searchers into Antiquity seem to demonstrate the commencement of their *separate House* to have began only from that *scurvy Pedgree* of the 49th of *Henry* III. near an hundred years after.

Vid. *Life* of *Hen.* 1. and *Coke*'s 4. *Inst.* c. 1.

Arg. p. 5. But more impudently *false* and *treacherous* is that bold Stroke and Assertion, wherein he tells us, *In every Act of Parliament that is made, it is expressly said in the Enacting part, That it is made by the Authority of them* **All**. This *no-Body* of the *Law*, and whose *Body* of *Divinity* is no better, is so little read, that *Keeble* and the *Statute-Book*, one wou'd think, never came into his hands: The *Charter* of *Henry* III. and the first *Act* of the Book, runs all in the *King*'s Name, *Act* and *Grant*, and that of his *meer Free-will* and *Pleasure*. King *John*'s was of the same kind before it, and both in the Style of *Royal Proclamations*, *We Grant*, *We Will*. And so it was confirm'd by *Edward* I. *We Ratifying*, *We Approving*, *and by Our Royal Authority*, *Commanding*.

Mag. Chart. Hen. 3.

28 *Edw.* 1.

9 *Hen.* 3.
28 *Edw.* 1.
14 *Hen.* 3.
20 *Hen.* 3.

The *Charta-Foresta* made by this *Henry* III. and confirm'd by this *Edward* I. carries just the same Authority and Style. The *Statut. Hibern.* though entituled a *Statute*, is only an Injunction of *Henry* III. to his Justicer *Maurice*, *begins* with the *Authority-Royal*, and *ends* with a *Teste meipso apud Westm.* The *Statute* of *Merton*, accounted and registred among our *Acts of Parliaments*, and which was at least a *Convention*, express in their Preamble, That they were Provided and Granted as of the *King himself*, *In the Court of our Lord the King*, *before* William *Archbishop of* Canterbury, *and other his Bishops and Suffragans*, *and before the greatest part of the Earls and Barons*. The *Statute de Anno Bissextili*, that related even to Impleadings, and their Regulations, in the *Leap-Years*, of the most Publick Concern, is only *an Order of the King*, *to the Judges of his Bench*, *begins* with his

28 *Hen.* 3.

Will,

Will, and ends with his *Command*, and another *Teſte meipſo*, &c. The *Statute* of *Aſſiſa*, &c. though for the Standard of *Bread* and *Beer*, and the neareſt Concern that could touch the Commonweal, has more the Form of a *Royal Brief*, than any *Joint-Enacting part* of the *Two Houſes*, and *begins* with, *The King, to all whom theſe Preſents may concern, Greeting*; and ends with the wonted *Teſte meipſo*. The firſt words of the *Statute de Scac.* are, *The King Commandeth.* The *Preamble* to the *Statute* of *Marlborough*, [and how, and in what manner, and by what Authority, as well as for what Purpoſes *Acts* are made, I think their *Preambles* beſt expreſs] has theſe *ſcurvy Paſſages*, which I'm afraid will very much countenance Dr. *B*—'s *Scurvy Pedigree:* 51 *Hen.* 3. 51 *Hen.* 3.

" The *King* our Lord, providing for the better Eſtate of this Realm of *England*, as *belongs* to " the Office of a *King*, the more *diſcreet Men of the Realm* being called together, as well of the " *Higher* as the *Lower* Eſtate, wherein the *King*, &c. hath *made* theſe *Acts*, &c. which *He* " *willeth* to be obſerved for ever. 52 *Hen.* 3.

Here it is evident from the very Preamble in the *Statute-Book*, That the *Lower Houſe* had began then to commence, and to be called together by the *King*; which in thoſe recited *Acts* juſt before were never mention'd; which had they been an *Houſe* before, as they were after, and concerned in the Paſſing *Bills*, had the ſame Parity of Reaſon and Law to be mention'd in the former *Acts*, that they had in this. 52 *Hen.* 3.

The *Statute* of *Weſtminſter*, made in *Edward* 1ſt's Reign, runs in this Style, *The King Willeth and Commandeth:* And the words of the Preamb'e juſt before, expreſs it *thus*, " The *King* hath " Ordained and Eſtabliſh'd theſe Acts under-written, which He intendeth to be neceſſary and " profitable to the whole Realm. 3 *Edw.* 1.

The *Statute* of *Bigamy* is but a *ſcurvy Precedent* of *Statute-making*, if it may be call'd a *Statute*; but the *Law-Books* call it ſo, and Mr. *Jo*——*n* will be concluded by nothing but *Law*. " It was " a ſort of *Statute*, or Explaining of *Statute*, made by the *King* (as the Preamble expreſſes) " in the preſence of certain Reverend Fathers, Biſhops of *England*, and others of the King's " Council, his Juſtices, as well as others, who did agree, that they ſhould be put in Writing, " and that they ſhould be ſtedfaſtly obſerved. 4 *Edw.* 1.

The *Statute* of *Glouceſter* ſtands thus in its Enacting part, " *Our Sovereign Lord the King* hath " Provided and Eſtabliſh'd theſe *Acts*, Willing and Commanding they be firmly obſerv'd: " And the *King*, of his ſpecial Grace, Granteth, is one of the laſt Clauſes of it, and this very *Statute*, was by the *King* and his Judges, in ſeveral Particulars, Clauſes and Articles of it, *Expounded*. It is a *ſcurvy piece* of *Prerogative*, and what we now deny our Princes; and therefore by no means muſt we admit of Mr. *Jo*——*n*'s *preſcribing* to the *Enacting* part and the *Expounding* part of *every* Act of Parliament. 6 *Edw.* 1.

I ſhall recite no more exemplifications of this kind out of this Reign; but the *Statutes* of his Son and Succeſſor, *Edward* II. begin and end in the ſame ſtrein, *Our Lord the King hath Granted*; *Be it Commanded on the behalf of our Lord the King*. This did not work his *Abdication*, or *Abrogation*, or elſe ſeveral muſt have been *Dethron'd* before, and ſeveral ſince. It was a ſign, it ſeems, that Style was according to our then *Engliſh Conſtitution*, and not contrary to it. 1 *Edw.* 2. 17 *Edw.* 2. *Arg.* p. 47. *Notes*, p. 83.

Edward III. was a Prince in the Peoples Affections as well as Intereſt: The Style of his *Statutes* begin, *At the Requeſt of the Commonalty of his Realm, by their Petition made before Him and his Council in Parliament*; *By the Aſſent of his Prelates, Earls and Barons, the King Wills, the King hath Granted, hath Ordained, hath Eſtabliſhed, hath Made*, [of which I know Mr. *Jo*——*n makes* but a Complement.] 1 *Edw.* 3. 50 *Edw.* 3.

Richard II. indeed was a *Depos'd* Prince, that *Reſign'd*: But how we come to *preſcribe* to *Abrogate* him, or to *Dethrone* All or any Prince ſince, is not ſo intelligible from our *Laws*. And if we *preſcribe* to *Fact* only, then I deſire Mr. *Jo*——*n*, according to his Poſtulate, to *write it down for Fact only*; yet the Style of his Statutes and his Laws, long before any *Abuſion of the Laws had wrought his Abrogation*, runs in this ſtrain, *We have Ordained and Eſtabliſh'd certain Statutes, by the Aſſent of Our Prelates, Dukes, Earls, and Barons*; *and at the Inſtance and eſpecial Requeſt of the Commons, Our Lord the King hath made certain Statutes and Ordinances, which We cauſed to be made*, &c. *Notes*, p. 24. Pag. 83. 1 *Ric.* 2. *Stat. Glouceſt.* 2 *Ric.* 2. 6, 7, 8 *Ric.* 2.

In *Henry* IV's Reign, where, one would think, *Conqueſt*, or *no Conqueſt*, the *Commons* ſhould have the higheſt Complement, the firſt Act, it ſeems, was made at the *Inſtance and ſpecial Requeſt of theſe Commons*, at the *Suit of the Commons*; and ſo to the end of the Chapter, and of his Reign. And ſo the 1ſt of *Henry* V. begins and ends. The ſame Form obtains in *Henry* VIth's long Reign, and ends with it too; only one Clauſe is added in the Preamble 1 *Hen.* 4. 2, 4, &c. 13. *Hen.* 5. 1, 9.

to

to the Acts of the 23d of his Reign, which is not recited in the preceding, and so since continued in several, *viz.* That in the Preamble of the *Statute* in which the *King's Enacting part* is recited, it is expres'd, *By the Authority of the same Parliament*, that is, the *same Enacting part*. So *Edward* IVth's Acts retain the *same* Clause with all the former mention'd. The *same* do the following ones in the Reign of *Richard* III, where the words, *At the Supplication of the Commons*, may be first observ'd. And in *Henry* VII. they run, *The King* hath *done*, caused to be *made*; *Praying the Commons, and by the Advice and Assent of the Lords Spiritual and Temporal, and the Commons in Parliament assembled, and by the Authority of the same*; and these, with little variation, have been continued ever since. Now though the Authority of the same, is urged by some to warp the *Enacting part* into the Subjects hand, 'tis plain, according to the Rules of Sence and Grammar, those subsequent words must relate to the Antecedent, and to that *same Authority* that says, *Be it Enacted, Ordained*, &c. which all the *Statutes* say is *By Our Lord the King, By Our Sovereign Lord, By the King's Highness, By the King's most Excellent Majesty*, &c. And the words, *At the Instance, Request, Suit, Supplication*, and *humble Petition of the Commons*, have been only chang'd into these Forms, *It may please your Highness that it may be Enacted*; *Most humbly beseech your most Excellent Majesty*; and, *May it please your Highness*; *His Majesty is graciously pleased that it be Enacted*; *Humbly shew unto Our Sovereign Lord the King, the Lords Spiritual, Temporal, and Commons*; and *Humbly pray of your most Excellent Majesty that it may be Enacted*, &c. *Beseech your Majesty that it may be Enacted*. And to bring it down even to the Form in use since the *Revolution*, as well as *Restoration*; *Be it Enacted by the King and Queen's most Excellent Majesty*; *Their Majesty's are contented and pleased that it be Enacted*; *We beseech your Majesties that it may be Enacted*; *Humbly Beseech*, &c. *Beseeching*, &c. and still by the *Advice* and *Consent*.

1 *Edw.* 6. 2 *Phil.* and *Mary.* 1 *Eliz.* 21 *Jac.* 1. 1 *Car.* 1. 12 *Car.* 2. 2, 3, 4, 5, & 6 *Gulielm.* & *Maria.*

This *Revolution Law* may set this * *Bridge-maker* of the *Revolution* Right: For if the *Enacting part* did not lie in the *Regal Authority*, it is not so conceivable how the Queen's Majesty and *her Authority* came to be concerned in *making* Acts of Parliament; for setting aside her *Regality*, she had neither *Act* nor *Part* (as the *Scotch Laws* term it) in making *our Laws*, or any Concern in Parliament, for she neither Acted there, nor Sate there, not so much as in the *King's Absence*: And the Act that was made in the 2d of their Reign, for the Exercise of the Regal Government during *that Time*, and which refers to that of the former Year that settled the Succession, by which the Crown and Regal Government are *Enacted* to be and continue to Their said Majesties, and the Exercise of it *only* in the *King*; yet *both Persons* being thereby made *Jointly Regal*, all the *Enacting parts* were, as well as other parts of the Regal Power and Government, *Enacted* in the Names of *both* Their Majesties, and as Her Majesty, perhaps from some antecedent Right, had some reason to expect; both those Acts, I think, make it pretty plain by Implication, and *ex confesso*, without the Lawyers *Innuendo*, in what Authority the *Enacting part* is to lie. For we never yet heard of any *Queen-Consorts*, but only of *Regents*, that is, such as had *Royal Authority*, that had the *Enacting part* of Laws put into their hands, or their Names to the *Sanction* and *true* part of the *Legislative*: *Which Laws* (not to forego the words of the Great *Hooker*) *have their Force not from them that Advise or Devise them, but from that Power that gives them the Force of Laws*. And here we'll take our Leave of this *Point* of this *Argument-maker*, and leave it with him, whether *every Act* be not against him, when he says, *Every Act that is made says expressly, in the Enacting part, That it is made by the Authority of them All*. For the words in most *Acts Be it Enacted by the Authority aforesaid*, or, *the same*, in English, Sence, and Law, can respect no more than the antecedent Power or Authority they acknowledge, and pray would *Enact*, as is already shown. The Lord-Keeper *Williams*, a Patriot Bishop, in Answer to Sir *Thomas Crew's Speech* when he was *Speaker*, says, *The Royal Assent is proper to the Lawgiver*; and that it is better for the People that this is in His *Majesty's* Power, and not in themselves, for that the *King* knoweth *best* what is best to be granted to his People.

* *Kal.* p. 47.

Arg. p. 5. *Rushw. Col. Jac.* 1. p. 147.

And if by *Advice* and *Assent* we must understand *Enactive Authority* in the *Great Council* of the Nation, the same Argument with a little stretching may make Mr. *J——son's Proclamation-Law*, or any *Edict* of the *King* to have its *Force* from his *Privy-Council*, for *there* Proclamations are Debated, and *there* they are carried too. In short, in both these Affairs, the *Negatives* of our Princes, Kings of *Old England*, which those of *Poland* want, do determine this *Point*; and for this Reason it is one of Mr. *Jo——son's Points*, and was Mr. *Sid——ny's*, Mr. *Ne——l's*, and Mr. *Harrington's* Points long before him; that our King's of *England* should lose this Point, which I hope our Loyal Parliament, and our *Thrice Honourable and Sage Representatives will take care for*.——

Notes, p. 6. *Arg.* p. 5. Vid. *Tyal*, and Mr. *Sid——* of *Governm. Oceana. Plato*, &c. *Prynn's Power of Parliam. Hunt's Post.* p. 50.

FINIS